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FOURTH DESPATCH

ON

INDIAN CONSTITUTIONAL REFORMS

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No. 3 OF 1919.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

REFORMS.

To

THE RIGHT HONOURABLE EDWIN MONTAGU,

His Majesty's Secretary of State for India.

Simla, April 16, 1919.

SIR,

WE have the honour to lay before you our views upon the enclosed report which was presented to us on March 10, 1919, by the committee appointed under the chairmanship of Lord Southborough, in accordance with the proposals made in para. 238 of the Report on Indian constitutional reforms, for the purpose of advising upon the demarcation of the field of provincial administration and the matters within that field which should be transferred to the control of ministers.

2. Some of the difficulties, which the committee necessarily encountered in fulfilling their task, were apparent to us at an early stage of the cold weather deliberations. The functions discharged by the Government in India cover vast areas of the life of the people, to an extent which the outside observer finds it difficult to appraise. They are in consequence so multifarious and diverse that it is far from easy to group them into categories on any scientific plan, for distribution among governmental authorities which will no longer be so closely inter-dependent as the existing organization. The work of government varies from those functions in which it is peculiarly identified with the special agency discharging it to those in which many departments or services are engaged, or in which, once the accepted policy has been embodied in legislation, effect is given to it by decisions of the courts of law. The committee's demarcation has accordingly been based upon a heterogeneous collection of functions, some of which differ widely in kind from others; but most of them, if not quite all, are clearly recognizable by the titles assigned to them. In pursuance of their instructions the committee have, in the first place, divided these functions broadly between all-India subjects and provincial subjects. In a few instances they have halved a particular subject between the central and the provincial Governments. In other cases adopting the suggestion made in para. 238 of the Report they have declared a given subject provincial, "subject to legislation by the Government of India." They have then picked out from the provincial list the matters which they considered suitable for transfer, and have stated against each of these any special reservations which they recommend. In section II, part 2, of their report they have discussed the powers of control by the Government of India in relation to provincial subjects; and in section III, part 2, they have examined the powers which the Governor in Council should retain in relation to transferred subjects. In connection with the last matter they have inquired further what powers of control should remain with the Governor himself.

General principles.

3. During the course of the past few months we have on more than one occasion considered the effect upon the Government of India's responsibilities of the proposal to mark off certain subjects as provincial. The key to the position

is, we think, to be found in the concluding portion of the formula in para. 189 of the Report, "This involves at once giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." It thus becomes of importance to ascertain what the proper responsibilities of the Government of India in future will be. We accept as generally accurate the description and explanation of the central control hitherto exercised, which is given in paras. 117-119 of the Report. We take our stand firmly upon the cardinal proposition that no government in India can remain free on the one hand of control by Parliament and on the other of control by a legislature in India. In order to examine the sphere of those two distinct and in some degree exclusive methods of control, we have to relate them to the fundamental feature of our whole structure, the two halves of the future provincial Government.

4. It follows that that half of the provincial Government, which will in future consist of ministers responsible to the legislative councils, must in the largest measure possible be free from superior official control. Such control in their case can be justified only by the necessity, touched upon in para. 12 of the despatch of March 5, of securing the paramount authority of Parliament, which will obviously include those matters for which under the scheme the Government of India will remain responsible to Parliament. It follows that some power of intervention must be provided in order to safeguard the subjects which will be retained directly in the Government of India's hands, and, in addition to these, such other matters as must continue to be regulated according to the wishes at Parliament. In para. 11 of our memorandum of November 29, 1918, which forms Annexure II to the committee's report, we suggested that the exercise of the central Government's powers to intervene in transferred subjects should be specifically restricted to the following purposes:—(1) to safeguard the administration of the Government of India subjects, (2) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province, (3) to safeguard the public services and (4) to decide questions which affect more than one province; and we thought that the proposed restrictions should be effected by empowering the Secretary of State to make rules restricting to such specified grounds the control exercised by the central Government under section 45 over provincial Governments in the case of transferred subjects. The committee's proposal is stated in para. 17 of their report. In substance they accept the four grounds of intervention which we proposed; but by their method of treating the question of legislative control as a distinct matter, regarding which they make detailed proposals, and also by treating separately the questions affecting the public services, they have reduced the apparent number of the grounds of intervention from four to two. They also re-state the last ground of intervention in the list in such a way as to provide an opportunity for agreement between the two provinces concerned before the intervention of the Government of India takes effect. As we shall explain hereafter (para. 12 below) we prefer our own method of dealing with provincial legislation on transferred subjects to the alternative proposed by the committee. We have no hesitation in accepting all their remaining proposals; and we accept also the amendment which the committee propose for the purpose of giving effect to them in para. 22 of their report. We agree that the Governor-General in Council should be the sole judge as to the applicability of the statutory rules in any given case, and we draw your attention to the emphasis which the committee lay on the need for making the rules subject to effective parliamentary control. We have only to add that if the Government of India are henceforth to intervene in transferred subjects only on specified grounds it seems to us inevitably to follow that the Secretary of State can only do so likewise. The delicacy of inviting Parliament to agree to set any bounds to the exercise of its authority was touched upon in para. 291 of the Report. It seems to us, however, that the statutory withdrawal of the Government of India's authority from transferred subjects, except on specified grounds, must be definitely recognized as exempting them except on the same aforesaid grounds from any responsibility in respect of such matters to the Secretary of State and Parliament. Transferred subjects in a word must henceforth be recognized as resting in the main upon a new source of power.

5. The position as regards reserved provincial subjects is more difficult; and before examining the committee's handling of it we may explain the conclusions to which our own investigations have led us. The provinces have in the past been administering some matters, as for example, customs and income-tax, in which the predominant interests of the Government of India are beyond question. They have also done much work on behalf of the Government of India in such matters as the railways and the post office. In respect of these functions we may conveniently describe the local Governments as acting in the capacity of agents of the Government of India. Beyond these matters, however, there has been a wide category of subjects in which no attempt has hitherto been made to measure either the interest or the inherent authority of the provincial Governments. In the case of some of them, such as the police and criminal justice, there is no denying the close interest inevitably felt by the central Government which is responsible for the security of India. In other cases, the need for maintaining India's external trade, or of securing uniformity in matters affecting the interests of commerce or industry between one part of India and another, have operated to give the central Government a close concern in certain other matters in the provinces. In other cases again the distribution of power between central and provincial Governments has rested mainly upon the criterion of convenience. But the effect of section 45 of the Government of India Act, 1915, which enacts that "every local Government is under the superintendence, direction and control of the Governor General in Council in all matters relating to the government of its province," has been to obscure whatever differences of kind can be traced in all these various cases; and it therefore becomes a matter of peculiar difficulty to define the measure of acknowledged authority which the official provincial Governments should in any specified case in future enjoy. In the past also the purely administrative control provided by section 45 has been reinforced by, or rather concealed behind, the close control over expenditure enforced by the various codes which resulted both from the system of divided heads of revenue and from the peculiar responsibility felt by the central Government and the Secretary of State for economy in administration. With the transfer of much of this responsibility most of these financial restraints will disappear, and the position will undoubtedly be easier; but in so far as they have been used to mask the administrative control their removal makes it only the more important to decide the principles on which administrative control should in future be exercised. We agree with the committee that in this respect there should be a difference between what we may call agency subjects and all other subjects which are provincial without being also transferred. In respect of the former it clearly must be in the competence of the principal to vary or even to withdraw the authority delegated to his agent.

6. In the case of the remaining subjects the relevant considerations are more complicated. It is, in the first place, clearly desirable to give the provinces a greater field of action than they have enjoyed in the past. Nor would we be inclined to measure their enfranchisement by restricting it to "getting rid of interference in minor matters, which might very well be left to the decision of the authority which is most closely acquainted with the facts" (Report, para. 213). We think that more than this is required, if only to enable the official provincial Governments to move with reasonable freedom in relation to their legislatures. At the same time, however, we accept fully and without qualification the proposition that an official provincial government must remain amenable to the Government of India and the Secretary of State and Parliament in matters in respect of which it is not amenable to its legislature. The scheme of provincial dyarchy to which we have declared our adherence in our despatch of March 5 does not contemplate that in reserved subjects the provincial Governments shall be amenable to their legislatures. On the contrary they are to remain responsible to Parliament for the good administration of such matters. Unquestionably, however, their administration of those subjects will in future be conducted under the eyes of a legislature which is more representative and will have further opportunities of advice and criticism than the legislative councils of the past have enjoyed. Although therefore we have proposed certain modifications of those features of the Report's scheme on which the committee's arguments rest, we nevertheless agree with them

that while the control of the Government of India over subordinate official governments in reserved matters must remain legally unfettered, it is proper that it should in future be exercised with regard, among other factors, to the question how far the action of the local Government is in accordance with the wishes of its legislature. The assent of the legislature would of itself be no reason why the Government of India should allow a local Government's proposals to which it saw strong objection, nor would the dissent of the legislature in any reserved subject be of itself a reason why the Governor General in Council should withhold his sanction to the provincial proposal; but in either case the attitude of the legislature would be one factor in the situation. We agree therefore to the committee's proposal to recognize it as such by a declaration of policy, enjoining the Government of India in the exercise of their future control of reserved subjects to have regard to the general purpose of the Act as declared in its preamble. It follows that we accept the proposals made in paras. 22 and 23 of the report; and we draw your attention and that of Parliament to the committee's remark at the conclusion of para. 23 that the declaration of policy which they there suggest will likewise affect the exercise of control by the Secretary of State on behalf of Parliament.

7. We agree entirely with the committee's remarks in para. 24. They here go to the root of this difficult problem of demarcation. The real difference of which we have to take account is between the matters which are to be handled by responsible ministers and those matters of which the official Governments amenable to Parliament will be in charge. The process of transfer practically removes a subject from the direct cognizance of Parliament to that of an Indian legislature. The real dividing line is between transferred subjects on the one hand, and reserved and all-India subjects on the other. So long as a provincial subject is not transferred, the precise limitation of its boundaries is not a matter of great practical importance; but as soon as the subject becomes transferred and the Government of India's control can only be exercised for certain statutory purposes the question of definition acquires a wholly new importance. The labelling of a subject as provincial is to be regarded as a convenient means of giving effect to the policy of the Report rather than as the beginning of a federal system. In making their present proposals for provincial subjects the committee disclaim any intention of drawing the line which will be necessary, or of defining what protection will be required for the central authority, when reserved subjects are hereafter transferred. We agree that such definition can only be decided if and when the question of transfer arises.

8. With reference to para. 25 of the report we may explain that our proposal to rest the demarcation mainly upon budget heads was made before we were made aware of the committee's method of classifying subjects, or the explanation given in para. 24 of their report. It would in any case have been necessary, we think, to supplement the list of budget heads by some categorical interpretation of the second formula ("subjects which must be administered centrally") which occurs in the memorandum forming annexure III of the report; and for that purpose we are content, indeed we prefer, to rely on the committee's list.

9. As regards para. 26 of the report all we need now say is that the various departments of the Government of India will undertake to prepare the legislation needed to give effect to the policy of delegation of control. The material received from the local Governments and already collected from the departments should greatly facilitate the recension of the statute book; and we agree that the position will thereby be simplified and the new system will start upon a better footing. We propose to place an officer on special duty for the purpose, and to initiate the necessary legislation at the earliest possible moment.

10. As regards the committee's proposals in para. 27 it seems to us that, while instructions to the Governor are appropriate for the purpose of regulating his relations to the ministers and therefore of providing a means for giving effect to the Government of India's intervention in transferred subjects, there is no justification in the case of reserved subjects for laying the personal responsibility upon the Governor; nor would such a course be in keeping with our wish to maintain the

corporate responsibility of the Governor and his Council. The proper course in our opinion would be for the Government of India to continue the existing procedure and to give orders in reserved subjects when necessary to the Governor in Council.

Provincial legislation.

11. We come now to the proposals for the control of provincial legislation. The general aim of the committee has been to leave the provinces free to legislate, without previous sanction, upon the provincial subjects, whether reserved or transferred, except where these are specially made "subject to Indian legislation." At the same time they propose to retain most of the restrictions imposed by the existing sec. 79 (3) of the Act, to which they add three further provisions. These deal with cases where the proposed provincial Bill affects powers expressly reserved by law to the Governor General in Council, or amends any provision of certain all-India Acts included in a schedule which they suggest, or amends any clause of an Act passed by the Indian legislature which by the terms of the Act itself is similarly protected. Over and above these provisions the committee suggest that certain types of provincial legislation, though not subject to previous sanction, should be compulsorily reserved by the Governor for the assent of the Governor General; and that in another class of cases it should be optional with the Governor to reserve provincial legislation for the same sanction. Finally they propose a category of matters not regarded as "subject to Indian legislation," in which the central legislature should nevertheless have power to legislate; it being open to it in doing so to prescribe that a provincial council shall not be competent to amend such a law without obtaining previous sanction. The committee have put forward a redraft of sec. 79 designed to give effect to their intentions, and have also thrown their suggestions regarding reserved Bills and the procedure attendant on reservation into draft form.

12. We appreciate the aim of the committee to reduce so far as possible the categories of provincial legislation which will require previous sanction: but as you will have gathered from our despatch of March 22, 1919, and the memorandum therewith forwarded, we are anxious to see the procedure which they suggest if possible simplified. In the first place we feel some doubt about the propriety of an arrangement, which makes certain provincial subjects "subject to Indian legislation." We take the broad view that administrative and legislative powers must really reside in the same authority, and that any such apparent diversity from this principle, as may be thought discernible in the Indian statute book, will be found on examination to be due to the fact that the administrative powers enjoyed by the authority which is not competent to legislate are really only delegated. So long as the entire administration of British India was held together in one whole by the provisions of sec. 45 of the Government of India Act, 1915, an arrangement by which definite powers were conferred by an Indian Act upon the provincial Governments involved no embarrassment. But with the change of system a new situation will be created, and the committee's proposal, which applies equally to reserved and transferred subjects, will in our judgment give rise to difficulty. So far as the reserved subjects are concerned we lay no special stress upon the point, because, as the committee themselves recognize in para. 24 of their report, the Government of India's control will in these cases remain unrestricted to any special purposes. We are prepared, therefore, to accept their solution, which at all events serves to bring out clearly the ultimate dependence of the provincial Governments in their official aspect upon superior authority. But in application to transferred subjects we cannot think it a suitable arrangement. A technical argument might be based on the first head-note to the all-India list, read in conjunction with para. 17 of the committee's report, to the effect that the Government of India would have an uncontrolled right of directing the administration of any transferred subject in respect of which there was an Act upon the Indian statute book. That is a position which we have no wish to adopt. But what we do feel is that the committee's proposal is inconsistent with the measure of definite responsibility which it is our aim

to give to ministers. We do not think that ministers will feel themselves fully seized of matters in respect of which they cannot without superior sanction secure legislation; nor do we like an arrangement which throws the main responsibility on the Government of India for legislating for certain matters in the provinces, while the execution of their policy is in the hands of agents whom they cannot appropriately control. Our own purpose was to limit the intervention of the central legislature to clear cases of necessity. We do not share the committee's fear that our proposed power of legislating in the interests of essential uniformity will impede the growth of a convention of non-interference. On the contrary our desire to establish such convention will tend to make us strictly watchful against any unnecessary uniformity of treatment. We regard the committee's proposal to subject to Indian legislation certain matters in the transferred list as clearly going beyond what the requirements of uniformity would justify. We recommend therefore that in the case of all the transferred subjects the provision "subject to Indian legislation" should be omitted: and that as is proposed in para. 212 of the Report, the right should be recognized of the Indian legislature to legislate for any provincial matter in respect of which uniformity of legislation is desirable. This modification will make it possible to simplify the committee's scheme of legislation in other respects as well.

13. Our second change has reference to the schedule of Acts which the committee propose to attach to sub-clause (*j*) of their draft. We are not sure upon what principle this has been compiled. It comprises the chief codes, and the chief laws relating to business and property, assurance, interpretation, provident funds, ports and lunatics. With a certain reservation in the case of ports, it may be said that all these are all-India matters, the regulation of which by a provincial legislature is already subjected to previous sanction by the terms of the committee's proposed sub-clause (*h*). We feel no doubt, however, that the intention of their sub-clause (*j*) is to afford a higher measure of protection to the scheduled Acts than would be provided by the more general terms of their sub-clause (*h*). Our difficulty rather is that we cannot find any sure ground on which to discriminate the treatment of the Acts proposed for inclusion in the schedule from many others which merit equal protection. Several important Acts forming parts of the criminal law of the country are not mentioned; and there are many others which occur to us in connection with the law of status and civil rights, property, business and commerce, which equally ought to be maintained upon a uniform basis. While therefore we agree with the committee's idea of defending a definite field of all-India legislation from alteration by the provincial legislatures without previous sanction, we are not prepared to accept their proposed schedule as limiting the field; and as will be apparent to you from sub-clause (*i*) which we have included in the redraft of sec. 79, appended to our second despatch, we should prefer to define the Indian Acts in question by rules to be made by the Governor General in Council.

14. We take the same view of the committee's proposals for the reservation of Bills (paras. 36-38) as we have already expressed concerning the proposals discussed in para. 12. We agree with their purpose and appreciate the advantages of restricting the cases where previous sanction will be required to provincial legislation: but we cannot help thinking that their end can be attained by simpler means. We have examined this question further since our despatch of March 22, 1919, was written. We see no need, in the first place, for a two-fold category of reservation powers. The effect of compulsory reservation (whether prescribed in the statute itself as the committee suggest, or by rule as we were provisionally disposed to think) would be to transfer the power of assent in the cases specified from the Governor's hands to those of the Governor General. We note indeed that the committee suggest that the Governor General should have power to direct the Governor not to reserve a Bill; but (to waive the question whether this extension of the personal powers of the Governor General would be expedient) we do not understand how the Governor General would be in a position to give such a direction until the Bill was before him, and we think that the provision for it would be largely inoperative. We do not think that the Governor's powers either need or should be circumscribed as the committee suggest. As we shall show you in due course (*vide* paras. 19,

53 and 108, and 30 below) our proposals for dealing with three, *viz.*, (*a*), (*b*) and (*d*) out of the four categories of cases in which the committee recommend compulsory reservation are rather different from the committee's, and go far to obviate the need for their proposed procedure. Their fourth category is that of a Bill which "contains provisions which have the effect of including within a transferred subject matters belonging to reserved subjects" [para. 36 (3) (c) of the report]. The committee have not explained this proposal otherwise than by their reference in para. 37 to "Bills which shift the boundaries between reserved and transferred subjects." We recognize that as a matter of administrative convenience, quite apart from any question of political development, some readjustment of boundaries may from time to time be necessary: but inasmuch as dyarchy has its basis in the statutory orders of the Secretary of State, we do not regard provincial legislation as the appropriate means of effecting such adjustments. To employ such means would certainly invite the agitation for a re-drawing of the frontier, which we strongly deprecated in para. 111 of our despatch of March 5, 1919.

15. These reasons lead us to conclude that no compulsory process of reservation is necessary. It will suffice we think to provide, as proposed in para. 23 of the memorandum attached to our despatch of March 22, 1919, that the Governor shall have a discretionary power of reserving provincial Bills for the assent of the Governor General: and to provide for the guidance of the Governor in the exercise of this power by the instrument of instructions. We have made provision accordingly in the draft of the instructions which we attach to this despatch.

16. As the committee point out, there arises the further question of the procedure which will follow upon the reservation of a provincial Bill. They suggest that if the Governor General so directs, but not otherwise, the Governor should have power to return the Bill for reconsideration of specified amendments. We need not go into the question whether the proposed power of direction should reside with the Governor General or with the Governor General in Council, because, as already intimated in para. 84 of our first despatch, we agree with the view taken in para. 254 of the Report on constitutional reforms that the Governor should have this power of returning a Bill for reconsideration of particular provisions in it, irrespective of any question of first reserving it for the orders of higher authority. We think that if the Bill is returned as a result of reservation, it should be by the personal orders of the Governor General. There would thus be a double power of recommitment, at first hand by the Governor and in the event of reservation by the Governor General. But inasmuch as recommitment by the Governor General may obviate the use of the veto, we think that he should have power to recommit any provincial Bill irrespective of its reservation by the Governor. We agree that when a Bill is returned for reconsideration, the ensuing procedure should, with such changes as are necessitated by the foregoing remarks, follow the lines suggested by the committee. We doubt whether the procedure would be set forth *in extenso* in the statute, but we suggest that clause 7 (1) of the Bill should be enlarged so as to provide the necessary rule-making powers.

17. The effect of the modifications which we advise in the committee's treatment of the question of provincial legislation will be to reduce their proposed four categories of provincial Bills (para. 39) to three. Over and above these, however, the committee have propounded two further species of provincial legislation. In para. 40 they advise that legislation on such matters as the diseases of men, animals and plants and the destruction of pests should be shared between the central and provincial legislatures. In their list of provincial subjects the committee record against the items no. 3—public health, sanitation and vital statistics, no. 9, agriculture, and no. 10, civil veterinary department (which reappear as nos. 3, 6 and 7 in their transferred list) a remark to the effect that the Indian legislature should have concurrent powers of legislation for the purpose referred to, although the matters defined in the items are not themselves made subject to Indian legislation. The committee advise that the Indian legislature should if it sees

fit include in its legislation on such matters a provision debarring the provincial legislature from amending its Acts without previous sanction ; in which event the effect is the same as if the portion of the field covered by the Indian Act had been declared subject to Indian legislation. It seems to us that this indeterminate treatment of the question introduces a complication which the circumstances hardly justify. It is true that the existing code of defensive laws upon such subjects will need amplification and amendment as the people of India come to appreciate more keenly the advantages of prophylactic science. But we question whether there will be much opportunity for isolated action by individual provinces. The case is clearly one in which the need for defending uninfected areas from the invasion of disease or pests would justify the exercise of the Government of India's concurrent powers of legislation to secure concerted protective action. We think it sufficient therefore to rely on the powers which the authors of the Report (para. 212) proposed to reserve to them for such a purpose ; and to secure any Indian legislation so passed against being impaired by the provincial councils either by the terms of the law itself or by prescribing it in the rules proposed in para. 13 of this despatch. This arrangement would still give the provinces an opportunity of supplementing the general legislation and of experimenting in particular directions if their peculiar circumstances so required. We therefore do not think it necessary or advisable to adopt the method proposed in para. 40 of the report.

18. Finally the committee adopt the suggestion made in para. 212 of the Report that the provinces should be empowered to adopt Indian legislation either as it stands or with modifications. The proposal of course relates to provincial subjects only. We see no substantial value in this arrangement. As you are aware, it is at present open to the Indian legislature to enact a general law which can come into operation in a particular area only on being notified as in force there by the local Government ; and so long as a province desires no modifications in the legislation which it wishes to apply that is clearly the simplest course to follow. On the other hand if the province desires to modify for its own purposes the text of an exemplar Act passed by the central legislature, it clearly must legislate to do so ; and if the provincial legislature is to legislate, then it should do so *ab initio* without the central legislature first setting it an example, which in any material respect the provincial Governments or legislatures might disregard. If a provincial legislature seeks to mould its law upon a model supplied to it from outside, it would always be open to the Government of India to assist the provincial Government with their advice, without going through the sterile process of first legislating themselves. We do not therefore advocate the proposals made in para. 41 of the report.

19. It remains for us to annotate our own redraft of sec. 79 of the Act. The changes in sub-sections (1) and (2) are consequential on clause (1) of the Bill. Clause (*a*) of sub-section (3) is explained by para. 62 of our first despatch. Clauses (*b*), (*c*) and (*d*) need no comment. Clause (*e*) gathers up in one comprehensive clause the matters now covered by clauses (*b*), (*c*), (*d*) and (*g*) of the existing sub-section (3) and also the committee's draft clause (*h*). Clause (*g*) is the committee's clause (*i*) : clause (*j*) the committee's clause (*l*). Clause (*h*) represents our considered conclusion upon the difficult question of legislation affecting religious rites and usages. We need not here refer to the lengthy correspondence which has passed upon the subject. The committee's proposals for dealing with it will be gathered from paras. 15 (4) and 36 (3) (*a*) of their report. Our aim is much the same as theirs, namely to give the provinces a greater liberty of action in redressing the abuses which often attend the administration of charitable and religious trusts ; but the restriction imposed by the existing section 79 (3) (*e*) of the Act is much wider in its scope than the provisions by which they propose to replace it. We have to bear in mind that much of the personal law of India is a law of status which the individual carries with him, irrespective of locality. For this reason we seek to retain the previous sanction of the Governor General to any changes affecting the fundamental principles of Hindu or Muhammadan law, while leaving the provinces free to seek such legislative solution as they choose for the difficulties of trust administration which have been acutely felt in practice. This statement of our intentions is,

however, subject to what we say in para. 65 below regarding our purpose of legislating without delay in order to secure certain principles of trust management, while leaving the settlement of details to provincial Governments. As regards our draft of sub-clause (*i*) we would refer you to para. 13 above. Since our despatch of March 22, was written we have re-examined the language of our redraft of the section. It appears possible that an argument in favour of the extension of the powers of the provincial legislatures might be based on the use of the word "regulating" in clauses (*e*) and (*f*). A provincial Bill which materially affected the administration of an all-India subject might for example be put forward without previous sanction on the ground that the scope of the measure was not wide enough to amount to the "regulation" of the particular subject. We advise therefore that the phraseology of clauses (*e*) and (*f*) be assimilated to that of clauses (*b*), (*c*), (*d*), (*g*) and (*h*) of the sub-section.

20. Two more points present themselves before we leave this question of provincial legislation. We have already expressed our concurrence with the committee's view that the powers of the Government of India to control the administration of the reserved subjects, however the exercise of such powers in future is relaxed or modified, must remain legally unfettered, if Parliament still acknowledges, and requires the Government of India to discharge, a responsibility for the general well-being of the country. As you are aware, our administration has in the past been based to a great extent upon a number of well-defined principles, some of them laid down by eminent predecessors of your own, others evolved in the course of long administrative experience in India. Some of them, such as the principles of non-interference by the State in religious issues, or of non-interference with through trade by transit duties, are so well-established that any attempt to interfere with them would perhaps command little or no general assent in India. But there are others, which, however cardinal to our ideas of government, are not regarded by Indian opinion as equally axiomatic. The best illustration that occurs to us are the principles evolved over a long period of years as a result of the labours of many distinguished men, on which the land revenue assessment in temporarily settled provinces is administered. It has come to be regarded as settled policy that in justice to its subjects at large the State ought not to forgo its share in the unearned increment of the land as it would do settlements of land revenue were to be made permanent: indeed the ordinary duration of a revenue settlement has come to be fixed at the life of one generation. On the other hand, out of consideration for the persons most directly affected by a new settlement, it is equally well established that the enhancement of the land revenue should not normally exceed a certain fixed percentage. There is indeed a growing tendency to require that this limitation, as well as the processes by which the amount of the assessment is arrived at, should be embodied in the law and made the subject of adjudication by the courts. It is not our present purpose to discuss the reasons for and against such a change; but we are bound to ask ourselves whether it is possible or expedient to take steps to prevent what we may describe as established principles of administration being defeated by provincial legislation. We have no desire to subject such legislation to any kind of superior executive sanction: and we recognize that there is the certificate power in reserved subjects and in any case the veto. But we have to bear in mind that Governors accepting office under the new conditions may feel some doubt whether what has hitherto been regarded as settled policy should not give way to the expressed desire of a mainly elective legislature to order things in future otherwise; and we feel that it is highly desirable if possible to avoid a situation in which the Government of India are called upon to prevent by the use of the Governor General's veto a mistaken policy expressed in provincial legislation to which the Governor has already assented. The only solution we think is to embody in the instructions to the Governor a direction that in considering whether projected legislation on reserved subjects injuriously affects his responsibility for them, he must pay regard to any general principles laid down for their administration by the Government of India or the Secretary of State. At the same time we recognize it as our duty to subject those principles to the strictest scrutiny from the point of view of devolution, and to retain for

the guidance of Governors only those which are of vital importance to good administration, so that local Governments may not be fettered by minor precepts of efficiency.

21. In the second place even if the proposed scheme of provincial legislation is simplified as we suggest, it will still be relatively intricate compared with the present arrangements. It is desirable to minimise the chances that when a measure has passed the provincial legislature the Governor General may still feel bound to veto it, not merely on the technical ground that his previous sanction was not obtained, but for the more substantial reason that it runs counter to some all-India interest in a manner which cannot be allowed and which would have been pointed out if previous sanction had been sought. There should, in our view, be some means of ensuring as far as possible that before legislation is undertaken in the provincial council the requirements of the Statute and the rules made under it have been fulfilled. We have already said that we cannot contemplate any form of previous executive sanction. The only alternative is to require that before a Bill is considered by a provincial council it shall be specially scrutinised to see that it is within the competence of the council. We think that this duty should be laid upon the secretary to the council, who under the new arrangements should be an officer qualified to undertake it. Para. 116 of the reforms Report pointed out how largely the practice of referring Bills for executive sanction had contributed to the maintenance of the present standard of drafting in legislation throughout India : and in the conditions of litigation in this country it is extremely desirable that the standard should be maintained. We think it likely therefore that the new conditions of legislation in India may render it very desirable to set up some kind of central drafting office, not under the orders of the Government of India, which all local Governments would co-operate in maintaining to advise upon the drafting of provincial Bills. But we do not think that the certification of provincial Bills as within the competence of a provincial legislature can properly be made the function of such a drafting office even if it is created.

Division of subjects.

22. Before we examine in detail the committee's distribution of subjects between all-India and provincial, we should like to state our views upon a few general points on which the committee have not touched, though some of the items which they enumerate to a certain extent involve them. The first is the question of information, which the committee mention in connection with the question of census and statistics. We should prefer to dissociate it from any particular item and to treat the matter as one of the fundamental conditions of a dyarchic system. We have pointed out (para. 12 of our first despatch) that such a system can endure only so long as it is safeguarded by Parliament, which must therefore be in a position to obtain any information which it requires whether on a transferred or a reserved subject. The authors of the reforms Report (para. 291) took the same view. But over and above this requirement it seems clear that the Government of India must have an unfettered right to obtain at any time and in such form as they require any information about the provincial administration, if they are to safeguard their own subjects, direct the administration of the reserved subjects, guide the Governor in his relations with ministers, maintain the public services on their present lines, and ensure that sufficient material is forthcoming for the statutory commission. We do not of course intend that the information so obtained shall be used for the purpose of executive interference to any further extent than the principles which we have accepted require : and we have already (para. 4) made it clear that in transferred subjects such intervention will be statutorily circumscribed. Our intention is that the Government of India shall be in a position to express their views freely and with full knowledge upon provincial administration, to advise where necessary, to rely for the enforcement of their view mainly upon public opinion and the strength of their case, and to interfere only in accordance with the principles and in the circumstances which we have already defined.

23. Connected closely with this last matter is the question of inspection and technical advice. The existing system of administration involves, as you know, the maintenance at the headquarters of the central Government of a number of inspecting or consulting officers whose advice, particularly on the technical side of the administration, has in the past been of the greatest value both to the Governor General in Council and to local Governments. With very limited exceptions these officers have had no executive authority over departmental work in the provinces. They have inspected provincial departments and advised the Government of India upon the results, and whatever decisions the Government of India have come to as a result of their advice have been communicated by that Government in orders to the local Government. We feel no doubt that this body of consultant and inspecting officers will be required in future, though the topics with which they are concerned are provincialized or even transferred. So far as the all-India and the reserved subjects go, no doubt arises. Whatever change ensues in their functions, it is clearly necessary to retain, for instance, the Director of Central Intelligence, the Director General of the Indian Medical Service, the Inspector General of Irrigation and the Director General of Archæology. We feel no doubt that the services of the Educational Commissioner, the Sanitary Commissioner, the Agricultural Adviser and others will be no less necessary, even if the corresponding departments in the provinces are in whole or part transferred to ministers. Coming changes will no doubt affect profoundly the activities of the Government of India departments, and their consequences in this respect can only be seen after some experience of the new arrangements. It would be premature to attempt to forecast them. But without seeking here and now to decide exactly what staff will be required for the purpose of transferred subjects at the headquarters of the central Government we wish to make it clear that some such staff will certainly be needed. The function of these officers would be to inspect the operations of the transferred departments in the provinces, and to report their conclusions to the Governor and Ministers as well as to the Government of India, and to produce as at present periodical reports which would be available to the general public. If they had occasion to criticise, their views would be expressed with due recognition of the extent to which provincial policy, however different from the policy previously pursued, enjoyed the support of public opinion in the province. They would in short report in the character of professional consultants and not in that of official supervisors. We do not propose that in the event of intermediate action appearing necessary upon their reports the Government of India should issue any official directions to the local Government. They would generally rely as we have said upon the fact of publicity and public criticism : but in extreme cases where remedial action was called for we think that they should call the attention of the Governor to the defects disclosed, and invite him to use his influence and authority with ministers to secure their removal.

24. The matter of scientific research again is closely associated with the questions of inspection and advice. This is an important element in the medical, sanitary, agricultural, forest and civil veterinary departments and it will figure largely in the activities of the proposed industrial department. On the educational side it has its counterpart in the central Bureau of Education. The committee have proposed to treat "central institutions of scientific and industrial research" as an all-India matter : and in these should be included, we consider, not merely the medical and bacteriological laboratories, but the Research Institute at Pusa, the Bacteriological Laboratory at Mukhtesar and the Forest Research Institute at Dehra Dun. In all these cases there is room for a great expansion of scientific research, and central institutions are needed for the double purpose of assisting and co-ordinating the work of provincial officers, and of undertaking investigations which are beyond their scope. None of the provinces is at present in a position to undertake all the research required for local purposes; and while it is desirable that the major provinces should be encouraged to equip themselves better in this respect, we think that central institutions will always be required to deal with the wider problems. At this point the question presents itself whether the Government of India, keeping in their own hands the direction of such central institutes of scientific research, should intervene

in provincial research for the purpose of preventing overlapping or the dissipation of effort on infructuous inquiries. We do not propose that provincial research should be hampered by any direct control. Scientific inquiry if it is to be real and fruitful must be left as free as possible. We think, therefore, that the results of the central institutes' research should be freely available to provincial departments, and may be safely left to carry their own commendation with them. It may be anticipated that the central institutes will for some time to come enjoy the best equipment and the most skilled staff: their work should prove itself: and if any provincial department persisted in disregarding the results which were made available to it, we imagine that the consequences in the shape of waste of time and money would be brought home to it if not by public opinion at least by the statutory commission. We may add that cognate problems, tempered however by the powerful factor of commercial production, present themselves also on the industrial side: but it will be more convenient to deal with that very important topic as a whole in connexion with para. 45 (3) of the committee's report.

25. We come now to the proposed division between all-India and provincial subjects. The committee's remarks upon this point in the third sentence of para. 13 of their report call for some amplification. Every department of the Government of India laid before them a detailed memorandum showing its own relations with the provinces, the nature of the control exercised and the reasons therefor: and we offered our Secretaries and Departmental Officers as witnesses to the committee in case they desired to elucidate further the information so supplied. It was out of the question for the Government of India, without knowing what principles of demarcation the committee contemplated, or the nature of the evidence which they had received in the provinces, to work out an entire scheme: our intention was first to settle principles with the committee, and thereafter to confer with them upon their application to details. The pressure of time alone made it impossible to adhere to this intention: the committee took no secretariat evidence on their return to Delhi and no conferences were held. It must not be deduced from the committee's condensed account of what occurred, that the Government of India neglected their own part in the inquiry or allowed an undue burden to be thrown upon the committee. The fact is that the inquiry had perforce to be conducted under stringent time limits, and we believe that everyone concerned did their best in the circumstances.

26. One more point requires notice. The committee would be the last to claim that their enumeration and definition of subject heads has scientific precision; and whatever time and care were to be expended on refining it, the possibility of overlapping, uncertainty or omissions must remain. There must therefore in any case be authority to determine on which side of the line a given topic falls. If it is a question between all-India and provincial subjects, such power must reside with the Governor General in Council: and with the Governor personally if it is a question between reserved and transferred matters.

All-India subjects.

27. The committee's all-India list appears to us to be generally suitable; but we desire to suggest certain amendments of varying importance in the list as it stands, and to recommend the addition to it of certain matters which appear to us to be clearly of an all-India nature, and of sufficient importance to justify their inclusion.

28. *Item 1.*—This should we think be expanded so as to include matters connected with the defence of India, such as ordnance, munitions, censorship, prize courts, etc., which are not covered by the committee's enunciation of personnel and works. We recommend the following redraft:—

"All questions connected with His Majesty's naval, military, and air forces in India, including the Royal Indian Marine, volunteers, cadets and armed forces, other than military and armed police maintained by provincial Governments."

"I.-A. Ordnance, munitions, censorship, compulsory purchases, requisitioning, prize courts, registration of mechanical transport, etc., for naval or military purposes."

29. *Item 5.*—We doubt if all excluded areas should be made an all-India subject but shall make a recommendation after further examination of the treatment necessary for them (*vide* para. 84 below).

30. *Item 6 (a).*—We agree with the committee that, though railways are essentially an all-India subject, provincial governments may well be given a larger voice in the construction and working of light and feeder railways within their jurisdiction. But the specific proposal to adopt the British parliamentary procedure in the case of light or feeder railways does not commend itself to us. Methods that have arisen out of the special conditions in England would not be suitable in India. Legislation is ordinarily unnecessary for the purpose in view and to have recourse to it would be dilatory and expensive. It involves a marked departure from Indian methods of business that a department of the Government of India acting under the orders of that Government should appear as a party to plead its case against the promoters of a private line before a select committee of the provincial legislature with a majority of non-official members. It would still be necessary to reserve control over such projects by means of the veto, and we are opposed to giving an unreal appearance of discretion to the provincial councils. The Railway Board whose opinion we attach, are opposed to the suggestion. We think that the simpler course will be to confine item 6 (*a*) of the all-India subjects to

"Railways and tramways, except (i) tramways within municipal areas, and (ii) light and feeder railways and tramways."

We should then leave those two exceptions as provincial subjects, the former transferred and the latter reserved, subject to such general principles as the Governor General in Council may prescribe and we should alter *item 5 (d)* of the provincial list accordingly. The legislature of a province would deal with Bills for light and feeder lines in the same way as other legislation: but there should in our opinion be a standing order requiring at least two months notice of a motion for leave to introduce a Bill on this subject, in order that the Railway Board may have an opportunity of advising the local Government regarding it in time.

31. *Item 6 (b).*—The alternative course to that proposed by the committee would be to rely on the well recognized obligation of local Governments to maintain all arterial communications in a proper state of efficiency. But in view of the proposed transfer of the subject of communications to ministers that arrangement might entail inspection of roads of military importance by the Department of Military Works, an arrangement which would be more likely to engender friction. We therefore accept the committee's proposal. The subsidiary question whether this should entail any transference of charges will be examined subsequently. As it stands, however, *item 6 (b)* is not regarded as sufficiently comprehensive. We advise that it be redrafted as follows:—

"*6 (b).* Such roads, bridges, ferries, tunnels, ropeways, causeways, and other means of communication as are declared by the Governor General in Council to be of military importance."

32. *Item 6 (c).* This should in our opinion be amplified as follows:—

"Air-craft, air-craft factories, aerodromes and landing places."

33. In *items 6 (d), 10,* and *20* occurs the phrase "declared by or under Indian legislation." In the case of inland waterways, the committee's intention is that such legislation should define the extent to which they are an all-India subject; in the case of ports it should declare those ports which are to be regarded as major ports and therefore an all-India subject; and in the case of the production, supply and distribution of certain articles, it should lay down the articles of which control by a central authority is regarded as essential in the public interests. In all these cases we accept the main purpose of the committee, which is to draw the line between central and provincial business; but we see no reason to undertake legislation in order to give effect to it. Rules framed by the Secretary of State will fix the classification of subjects as all-India or provincial, and power should be given to the Governor General in Council under these rules to define the extent to which inland waterways shall be all-Indian, to

declare the major ports, and to notify the articles which are to come within the scope of *item 20*. To require legislation in these cases would not only be inconvenient and productive of serious delays, but would also impose on the Indian legislature a function which has never belonged to it and which it is not well qualified to discharge. We may take this opportunity of specifying the ports which we propose that the Governor General in Council should declare to be major ports. We think that Calcutta, Bombay, Karachi, Aden, Rangoon and Madras should be declared to be major ports and that for special reasons Chittagong and Vizagapatam should also be so treated Tuticorin would then be the largest of the minor ports, and it is quite possible that either there or at Cochin there may be such development as to require that they also should hereafter be treated as major.

34. *Item* 8 should be amplified to read as follows:—

"Lightships, beacons, buoys, and lighthouses (including their approaches)."

35. In *item 11* we would add after the word "telephones" the words "and wireless installations." In *item 12* we would substitute "taxes on income" for "income-tax." The term income-tax has a restricted meaning, and it should be made clear that the central Government of India will reserve for itself not only the existing tax known as income-tax but all taxes on income. The excess profits duty, for example, which has recently been introduced would not be covered by the entry in the committee's list, but it clearly should be classified as an all-India subject.

36. It is not clear what articles the committee had in mind when they framed their definition of *item 20*. We understand that this entry was not intended to cover the case of munitions, which would come under *item 1*; nor yet stores (though these have not been separately provided for), but was meant to embrace such articles as cinchona, the production of which the Government of India now contemplate taking under their sole charge. We would accept the entry with the amendment suggested in para. 33 above, but would divide it into two parts as follows:—

20. Control of production, supply, and distribution of any articles, in respect of which control by a central authority is declared by the Governor General in Council essential in the public interests.

20.-A. Control of cultivation and manufacture of opium and sales of opium for export.

37. *Item 28* requires some modification in regard to railway police. The position of the railway police differs from that of the ordinary civil police in only two important respects. The first difference is that owing to the fact that railway administrations are not co-terminous with provinces it is in many cases convenient to give the railway police of one province jurisdiction over a special section of railway lying within an adjoining province. The second difference is that the cost of the railway police is divided between provincial Governments and the railway administrations. We would deprecate any change in the existing position, and would resist any proposal which has the appearance of placing the organisation and control of the railway police to a greater extent than at present in the hands of the Government of India. All that is required is that the jurisdiction and cost of the railway police should be made an all-India matter. We recommend therefore that the words "so far as jurisdiction and cost are concerned" be added to *item 28*.

38. We feel that *item 30* as it stands does not fully cover the case of medical research. The Government of India maintain a bacteriological staff for enquiries connected with public health, and in addition to maintaining a central research institute they also provide part of the staff of some provincial institutions. They further administer the Indian Research Fund. We suggest that the words "Central agency for medical research and" should be inserted at the beginning of the entry.

39. *Item 33.*—While we agree that archæology should be classed as an all-India subject, we are anxious to consult the Government of Madras before

we definitely recommend that the provincial archæological establishment should be taken over by the Government of India. The position of the officers of the provincial department will be affected by this change, and we think it right that the local Government should be given an opportunity to express their views before a final decision is taken. The committee's remark that the Government of India had suggested that archæology should be classed as an all-India subject is not quite accurate. The suggestion was a departmental one but we think it was right in principle.

40. The entry in the remarks column opposite *item 36* is one which, as we have already said, should in our opinion be of universal application. We think it absolutely necessary that the Government of India both as the agent of Parliament and in its own interests should be in a position to demand returns and information on any subject in any form required. This was recognised in para. 291 of the Report, and we recommend that the point should be freed from all doubt by the insertion of a definite provision to this effect in the rules to be framed by the Secretary of State.

41. We come now to the omission from the all-India list of matters which in our judgment are too important to be relegated without specification to the committee's residuary *item 40*. After *item 3* "Relations with native states" we suggest an entry "Political charges". There are various charges of a political nature, for example, political pensions, which do not affect our relations with Indian states, and all of which are of an all-India nature. It seems advisable that such charges should be definitely included as an all-India subject.

42. Another matter of a political nature which finds no place in the list is that of State prisoners. There are three regulations for the confinement of State prisoners, *viz.*, Bengal Regulation III of 1818, Bombay Regulation XXV of 1827 and Madras Regulation II of 1819, besides certain ancillary ones. The detention of any person as a state prisoner under the Bengal Regulation requires the orders of the Governor General in Council, while for detention under either of the other two regulations the orders of the Governor in Council concerned are sufficient. Though the Governments of Madras and Bombay thus theoretically enjoy full powers under their respective regulations, the Government of India could not under modern conditions allow these powers to be exercised without reference to them. We propose, therefore, to include this subject after *item 27* in the all-India list.

43. *Item 4* is probably intended to cover only the general administration of territories other than the provinces included in the schedule. The Andaman Islands occupy a somewhat special position. Their problems are those of penal rather than of general administration, and we propose to include them, together with the Nicobars, which are in practice administered from Port Blair, as a separate subject, which might suitably be included in the list after *item 4*.

44. It is also desirable to provide for the possibility of re-distributions of territory affecting provincial boundaries which may follow the introduction of the new régime. Such re-distributions are clearly a matter which must be regulated by the central Government. This will also necessitate the retention of power to declare the laws in force in the new areas. We recommend that an entry should be made in the all-India list "Territorial changes other than intra-provincial, and declaration of laws."

45. One notable omission, however, from the all-India and provincial lists is the subject of stores, with which stationery is closely connected. The classification of this subject presents peculiar difficulties. We do not desire to see it made wholly all-Indian, while it is clearly undesirable to make it entirely provincial. Competition between local Governments would undoubtedly tend to raise prices, and provincial stores departments could not afford the same stimulus to industrial development as a central department which was in a position to place large orders with single firms and thereby could enable them to compete successfully with foreign producers. Any division of the subject, however, is impossible without detailed investigation. We propose therefore,

as recommended in para. 196 of the Industrial Commission's report, to appoint a committee as soon as possible to examine the extent to which decentralisation in regard to stores will be possible; and in the meantime we suggest that stores and stationery be added to the all-India list after *item 20*, on the understanding that such measures of decentralisation as are found by the Governor General in Council to be advisable will be introduced as soon as possible. Government printing should also find a place in both the all-India and provincial lists, so as to provide for both central and local Government presses.

46. Food-supply is another topic requiring notice. Recent experience in India has proved the necessity of making the regulation of food supply an all-India subject. The point is one which hardly calls for argument; it is sufficient to say that in times of shortage, such as this country is now passing through, it is essential that the Government of India should be in a position if necessary to centralise control of all food supplies. The same need has been felt in the case of fodder, fuel and other articles. The central Government is the only authority which can adjudicate upon the competing needs of the various provinces; and we feel strongly that it should be able to regulate inter-provincial trade in them at any time. We propose that such regulation should be definitely recognised as an all-India subject and that the following item should be added to the all-India list *19-A*. "Regulation of food supply, fodder, fuel, and trade generally between provinces in times of scarcity."

47. Pilgrimages beyond India are clearly a matter which does not come within the sphere of any local Government. The most important is the Hajj. We would add such pilgrimages as an entry in the all-India list after the existing *item 26*.

48. Government of India records and the Imperial Library are also topics which find no mention. Both are all-India subjects, and should be added as a joint entry *30-A* after the existing *item 30*.

49. Government of India buildings should also find a place in the all-India list, and may be inserted as *item 30-B*.

50. Another matter of sufficient importance to be included in the all-India list is the regulation of ceremonial, including titles and orders, precedence and darbars, and civil uniforms.

51. Provision should also be made for the regulation on uniform lines as an all-India subject of the higher language examinations.

52. The last addition which we desire to make to the all-India list is the Government servants' conduct rules. At present the conduct of Government servants is regulated by rules issued by the Governor General in Council. It is clear that in the case of the all-India services the Governor General in Council must continue to regulate the conduct of officers. We feel that it would be very undesirable to have one rule of conduct for the all-India and another for the provincial and subordinate services. The maintenance of the present integrity and high standards of the services is an all-India interest. We consider therefore that the conduct of Government servants generally must be made an all-India subject, and we would add it after the existing *item 37*.

53. One onerous responsibility of the Government of India during recent years has been the watching and handling of political activities throughout the country. These have had the widest possible range, from proceedings which are covered by the criminal law to others which lie well within the limits of orderly and constitutional activity. The subject ramifies broadly and includes not merely matters like passive resistance or organized agitation which may at any moment call for intervention, but also organizations which are primarily non-political, such as boy-scouts, civic guards, volunteer *samitis* and proceedings like strikes and picketing in the industrial field. We feel that while the central Government which is ultimately responsible for the peace of India cannot but feel a close interest in such matters, the actual handling of them must be to a great extent committed to local Governments' hands. We think it better not to attempt to gather them up in any comprehensive

definition as an item in the all-India list, but to treat them as sufficiently covered by the committee's *item 40*.

Provincial subjects.

54. We turn now to the list of provincial subjects. Our comments upon the all-India list will have suggested that here also our criticisms are mainly on points of detail. There are, however, a large number of these in regard to which we desire to make suggestions.

55. From *item 1* we propose the omission of all words after "Cantonments Act." Our reasons will appear from para. 109 below in which we discuss the transfer of this subject.

56. *Item 2*.—While we accept the proposal that medical administration should be provincialized, we consider that the last five words of this item should be removed and added at the end of *item 42*. Our reason is that we are strongly of opinion, on grounds that we shall develop later in this despatch, that medical education should be made a reserved subject; and the other matters included in *item 2* will be all transferred, while those composing *item 42* will be reserved. Our attention has been called to the point that the subject of leprosy, which would come under medical administration, is clearly a matter in which the Indian legislature should have power to legislate for the whole of India. We agree; but we consider that the point is covered by the proposals made in paras. 12 and 17 above.

57. It is doubtful whether *item 3* would include the subject of pilgrimages. We have pointed out in para. 47 above that pilgrimages beyond India should be made an all-India subject, and we would like to see pilgrimages within India made a provincial subject and included as a new *item 3-A*.

58. The question of the powers of control in regard to education which should remain vested in the Government of India is a matter of great difficulty. We shall discuss the whole question of the treatment of education in connection with the transferred subjects, and here we desire to make only three suggestions. First, we think that after the words "Benares Hindu University" in *item 4 (1)* there should be added the words "and such other new universities as may be declared to be all-India by the Governor General in Council." We feel that some such provision is desirable, as it is possible that other universities closely resembling the Benares Hindu University may be constituted in future. Secondly, after "(2) Chiefs' Colleges" we would add "any institutions maintained by the Government of India." Our last comment is contingent on what we say hereafter as to the treatment of higher education and will be disposed of if our views upon that topic are accepted. We feel that the period of five years during which it is proposed to give the Government of India legislative powers with regard to the Calcutta University and the control and organization of secondary education in Bengal is not sufficient. The changes proposed by the Calcutta University Commission are so far reaching that a considerable period must necessarily elapse before they can be brought into effect and a much longer period before their results can be judged. In the event therefore of the transfer of higher education to ministers (a course which as we shall show you we do not advise) we should propose that for the words "for a period" down to the word "operations" the following should be substituted: "up till the time when the recommendations of the first statutory commission are carried into effect."

59. Regarding *items 5 (b)* and *5 (d)* in the provincial list we would refer you to what we have said in paras. 31 and 30 above.

60. *Item 6* appears to us to require both expansion and amendment. We propose that the following should be substituted for it: "Control of water supplies in rivers, streams and lakes, irrigation and canals, drainage and embankments, water storage and water power, subject to such rules in regard to technical scrutiny and financial sanction as may be prescribed." The additions which we suggest in this item are justified by the necessity of retaining control over all water supplies in order that these may not be

dissipated and rendered useless for purposes of industrial development, irrigation, etc. Our objection to requiring legislation in such cases has already been explained in para. 33 above.

61. The treatment of land revenue administration (*item 7*) is of special importance. We are prepared to agree to the entries proposed by the committee under this head, but the land revenue administration is so vital to the welfare of the whole country that the Governor General in Council must continue to regulate it by general principles which like others of the kind the Governor would be required to take into account in dealing with proposals for legislation. We have referred to this matter at greater length in para. 20 above. The disposal of crown lands and alienation of land revenue are subjects which must continue to be a special concern of the Government of India and in regard to which such general principles would necessarily be laid down for the guidance of local Governments. After *item 7* we would insert a new *item 7-A*. "Management of State properties."

62. As regards the committee's explanatory note with reference to *items 9* and *10* in the provincial list we may refer you to para. 17 of this despatch. Our views are supported by the experience of the military authorities as to the need for co-ordinating the action of provincial Governments in this matter of defence against contagious or infectious animal disease.

63. *Item 14.*—The procedure proposed by the committee for the acquisition of land for industrial purposes would be a new departure so far as India is concerned: and we cannot recommend it. We think that the procedure by private Bills, far from facilitating the development of industry, would positively impede it. It would involve expense and delay and the risk of improper influences. Moreover in cases where the Government of India themselves desired to promote an industry, it would be open to the same objection as the proposal already discussed in para. 30. Nevertheless we recognise that our present law is not sufficiently liberal. We propose forthwith to examine the practicability of amending it by specifically extending its scope to cover applications on behalf of industrial enterprises, accompanied by safeguards such as those proposed by the Industrial Commission, and by bringing such applications under the cognizance of the legislature.

64. *Item 16* would give the provincial legislatures power to alter without previous sanction the jurisdiction of the civil courts. Changes may possibly be made which will re-act not merely on the public but on the High Courts and the Privy Council, but we are prepared to face this contingency. We think that in addition to matters relating to the constitution of High Courts, matters relating to the constitution of Chief Courts and the Courts of Judicial Commissioners should also be excluded. The definition of the item as a whole seems capable of improvement and we suggest the following redraft :—

"The administration of justice, including the constitution, organization and powers of courts of civil and criminal jurisdiction within the province other than a High Court, a Chief Court or the Court of a Judicial Commissioner, but subject to Indian legislation as regards courts of criminal jurisdiction."

65. We have some difficulty in accepting *items 19* and *22* as they stand. The revision of the law in regard both to court fees and to religious and charitable endowments is at present under the consideration of the Government of India. A Bill relating to religious and charitable endowments has been approved by your predecessor and but for the war would have been introduced in the Indian legislature. We are anxious that the legislation on both these subjects should be passed before the reforms take effect, and shall make every effort to ensure this. We recommend therefore that, for the present, *item 19* be made provincial "subject to Indian legislation," which involves the omission from the definition of all words after "legislation," and that *item 22* stand as at present on the understanding that the forthcoming Indian Act upon the subject will be secured from alteration by rules under our proposed section 79 (3) (*i*).

66. The inclusion of the subject "development of industries" (by which we mean, and obviously the committee meant, manufacturing industries) in the

provincial list alone would have the effect of debarring the Government of India from undertaking the direct development of any industry. This is a position which we cannot accept. The subject of industries is of great importance and we reserve our discussion of it as a whole until we come to deal with the transferred subjects. But to anticipate for a moment the conclusions to which our examination of the question has led us, we propose that the development of industries should come within the sphere of both the central and the provincial Governments. In the all-India list we would add the following entry after *item 22* :—

No. 22-A. The development of industries including industrial research.	See No. 24 :--Provincial. The fact that the development of any industry or any industrial research is being taken up by the Government of India will not prevent local Governments from also taking it up

and in the provincial list we would alter *item 24* as follows :—

Development of industries, including industrial research.	*Vide* all-India list no. 22-A.

67. From *item 26* we would omit all the words after "articles." There is no need to give provincial Governments any power of regulating either the export from or import into India of adulterated articles in which behalf the customs legislation of the central Government affords all necessary powers.

68. In *item 28* for the reasons given in para. 33 above we suggest that the words " by the Governor General in Council " should be substituted for the words " by or under Indian legislation."

69. In *item 29* for similar reasons we would insert after the word "declared" the words " by the Governor General in Council."

70. In *item 30*, for the reasons given in para. 37 above we would insert the words " the jurisdiction and cost of " between " than " and " railway. "

71. In respect of *item 31*, the only comments which we have to make concern the subjects of poisons and cinematographs. The import of poisons should we consider be subject to Indian legislation. We have recently passed an Act which provides for the certification of films and are only awaiting the views of local Governments on certain points of detail to bring it into operation. This certification will not, and without great inconvenience to the trade could not, be placed upon a provincial basis It must, we think, be regulated by the central Government, and we propose therefore that at the end of *item 31 (f)* there should be added the words " subject to Indian legislation in regard to certification."

72. In *item 32* we consider that after the word "newspapers" the word " books " should be inserted.

73. In *item 36* after the word "prisons" we would, in view of the Prisoners Act, add the word " prisoners. "

74. In *item 37* we would suggest the addition of the words "and cattle trespass."

75. To the exceptions made in *item 39* should be added after "Indian Museum" the words " Imperial War Museum."

76. *Item 41* relates to the questions of franchises and elections. In our next despatch we shall ask you to decide whether the franchises settled by rules under the Government of India Act are to be regarded as open to revision at the wish on the various parties, or as fixed for the period previous to the first statutory commission. In the latter case the item should disappear. In the former case the reference to Indian legislation should go out, inasmuch as it is not the intention that the Indian legislature or the provincial legislatures should have power to alter rules made by the Secretary of State in Council and laid before Parliament.

77. The reference to Indian legislation in *item 43* appears to us to be too wide in scope. As we have explained in para. 44 *et seq.* of our despatch of March

5, 1919, our view is that the all-India services should be regulated by legislation in Parliament. We consider that these services are entitled to have their conditions settled beyond the possibility of alteration by any authority in India. Within the fundamental limits so prescribed the control of the all-India services is already an all-India subject (*item 37*); which arrangement will of course not preclude the local Governments from determining the day-to-day administration of such services as are under their orders. The case is an excellent example of the thinness of the dividing line between reserved and some all-India subjects, but inasmuch as the scheme requires that the item should figure on one side of the line, we have no doubt on which side it should remain. *Item 43* should accordingly read "Control of the public services other than the all-India services, serving within the province, subject to Indian legislation."

78. *Item 44* does not go quite far enough. We would substitute for it the following:—

"Sources of provincial revenues not included under previous heads, whether (*a*) taxes included in the schedule of additional provincial taxes or (*b*) taxes outside this schedule in the case of which the prior sanction of the Governor General in Council has been obtained to the necessary legislation." While for clearness' sake we prefer this redraft, we admit that inasmuch as such taxes can only be imposed by law our redraft of sec. 79 (3) (*a*) of the Act goes far to render (*b*) unnecessary.

79. The limits of provincial borrowing, like other points in the scheme, will be determined by rules made by the Governor General in Council with the sanction of the Secretary of State in Council. If it is held that such rules cannot empower the provincial governments to hypothecate their revenues for the service of a loan, they should be enabled to do this by Indian legislation which should not be open to alteration by the provincial councils. *Item 15* should therefore read "Borrowing of money on the sole credit of the province subject to such rules as are made by the Secretary of State in Council."

80. We do not understand *item 46*. In para. 48 of their report the committee refer to this as a subject which cannot in itself either be reserved or transferred; but to us it does not appear to be a subject in the same sense as every other item in the list is a subject. The committee have possibly inserted this entry in order to forestall the argument that the insertion of penal clauses in a provincial Bill *ipso facto* makes the Bill an all-India subject by bringing it within the scope of criminal law (all-India *item 27*). We sympathise with the committee's object but we would prefer to see it effected by some other means, such, for example, as an entry in the remarks column opposite *item 27* of the all-India list. We would strike out the proposed *item 46* of the provincial list on the ground that there is no real substance in it.

81. There are only two items which we desire to add to the provincial list. The one is "Provincial records and libraries" and the other "European cemeteries and historical monuments and memorials." Both might suitably be inserted between the existing *items 39* and *40*. European cemeteries still in use and some disused ones would come under ecclesiastical administration (all-India *item 31*) but many old grave-yards throughout India would not do so, while places such as the Residency at Lucknow and the Memorial Gardens at Cawnpore with which are associated national memories are nowhere specially included. They might, unless provided for, be treated as gardens and be transferred to ministers' hands. Such memorials must certainly remain the peculiar care of the official Government and we propose to include them as a provincial reserved subject.

Transfer of subjects.

82. At the outset of their proposals for the transfer of subjects the committee, in fulfilment of a pledge given by the Government of India to the Government of Madras, record the formal objections taken by that Government to any proposals involving a division of functions. They note also the reservations or qualifications with which the Governments of Bombay and the Punjab and the Chief Commissioners of the Central Provinces and Assam

placed proposals for those provinces before them. Our despatch of March 5 explains that before concluding in favour of the scheme of provincial government proposed in the Report we carefully weighed the objections taken to the division of functions by certain local Governments: and on the present occasion we may be content therefore merely to draw your attention to these dissents. In paras. 45 to 47 of their report the committee go on to deal with particular items in the transferred list. We shall reserve our remarks upon these for subsequent paragraphs.

83. Para. 48 of the report discusses certain matters which, as the committee say, cannot themselves be either reserved or transferred. As regards the first two of these, *viz.* the public services and the provision and distribution of financial supply, we shall explain our views in dealing with sections IV and V of the report. As we have said, we do not clearly understand the purport of item (3) relating to the 'imposition of punishments' and for the reasons given in para. 80 above do not think it necessary to preserve the item in the provincial list. Item (4) relates to any matter which, though included within an all-India subject, may be declared by the Governor General in Council to be of a purely local or private nature within the province. We have no objection to such a provision although no good illustration readily occurs to us. We think it likely that any given case would be sufficiently cognate either to some reserved or transferred subject to leave little doubt as to the category into which it should fall, and the Governor's intervention under para. 239 of the Report should be necessary only in the event of a difference of opinion which ordinarily need not arise.

84. *Item 5* in the all-India list proposes to treat as an all-India subject all areas excluded from the general scheme of the report, and paras. 49 and 50 of the committee's report explain their views as regards some of these areas, and the effect upon their own proposals for the transfer of certain subjects in the provinces concerned. The treatment of backward tracts was not a matter directly falling within the terms of the committee's reference, although it was inevitable and proper that they should incidentally take cognizance of it. Their suggestions, however, do not deal with all the tracts for which it is necessary to make special provision; and the more convenient course, we think, will be to reserve this section of the problem, regarding which we have been in communication with the local Governments, for a separate despatch, rather than to overload the present one with a discussion of the various points of detail involved. Simultaneously we shall discuss the arrangements to be made for Assam.

85. The difficult question referred to in para. 51 of the committee's report really belongs to the discussion of the report of the franchise committee; and we shall deal with it when we discuss their report.

Powers of the Governor.

86. In section III, part 2, of the report the committee discuss the powers of control in transferred subjects to be exercised by the Governor in Council or by the Governor; and the conclusions which they have reached do not seriously differ from our own, as intimated to you in our despatch of March 5. The committee (para. 55) support our conclusion that the Governor in Council cannot with advantage be brought directly into the administration of transferred departments. We entirely agree with the committee (para. 58) that a double responsibility will rest upon the Governor, the proper discharge of which will require that he should have power to intervene in transferred subjects on either of two grounds—

(*i*) for the protection of the reserved subjects, and

(*ii*) for the protection of the special responsibilities, unconnected with any particular subject, which are laid upon him by his instrument of instructions.

This conclusion was anticipated in the remark in para. 83 of our first despatch that "under his instrument of instructions the Governor will have

certain peculiar responsibilities which are not identified with the reserved subjects." In either case the Governor will be discharging a duty which he owes to the ultimate authority of Parliament and it must be open to the Government of India in the exercise of their responsibility to Parliament to direct and control him in such cases.

87. To provide for the former case the committee (para. 60) sketch out a procedure which is in general accord with the proposals in paras. 102 and 104 of our first despatch. In para. 60 (8) they go rather further than we had proposed in the direction of empowering the Governor to take emergency action during an interregnum between two ministers; and in such an event we consider that it should be the Governor himself, and not the official half of the local Government, which should take charge of the ownerless portfolio. On the other hand, they omit to carry matters to the ultimate test by providing for the possible retransfer of a transferred subject, in order to end insoluble disagreement between a Governor and his ministers. We regard the proposal made in para. 102 of our despatch as affording the only answer to the inevitable problem which presents itself during the period of transition, that is to say, the problem of what is to happen if ministers and legislature are bent upon a course of action to which the Governor, guided by his instrument of instructions and acting under such directions as he may receive from superior authority, feels it impossible to assent. To our mind this is the ultimate test of dyarchy ; and the cardinal assumption, made in para. 12 of our first despatch, that the authority of Parliament must remain paramount over both halves of Government, forbids us to answer it except by providing for a possible retransfer.

88. Para. 61 of the committee's report goes to reinforce the proposals made in para. 40 of our first despatch. In para. 63 the committee suggest material for rules of the kind for which we proposed to provide in para. 13 of the memorandum forwarded with our second despatch. We accept clause (1) of the committee's proposals, and likewise clause (2) (*a*) which accords with para. 104 of our first despatch. As regards sub-clause (2) (*b*) we prefer, as we have already said in para. 10 above that in reserved subjects the orders of the Government of India should be addressed to the Governor in Council. As regards sub-clause (2) (*c*) we think that it should be for the Governor, as we have just observed, to decide any doubtful question of jurisdiction ; but that once the jurisdiction has been decided the substantive decision should not be that of the Governor in person but either that of the Governor in Council or that of the Governor and ministers, subject in the one case to the Governor's powers under section 50 of the Act and in the other to his power of overruling his ministers. We hope, however, shortly to present to you a draft of the rules which we suggest for regulating the procedure in all these cases.

89. We come now to the important matter of the instructions to the Governor. At the outset we wish to make it clear that we regard these as the appropriate means of affording the Governor guidance in the comparatively delicate matter of his relations with ministers. They measure the extent to which the ministerial portion of the Government is to be regarded as still coming short of a purely constitutional position. They are the means by which the discretion of the ministers and legislatures is still to be regarded in some respects as tempered by the need for securing that the wishes of Parliament in vital matters are not disregarded. But they are inappropriate for regulating the attitude of the Governor in Council, who, inasmuch as he cannot properly receive instructions from the legislature, must remain amenable, if necessary in the least particular, to superior authority. The committee's proposals in para. 67 accord with the intentions of the reforms Report. As regards clause (1) we should prefer as in the existing Act to adopt the phrase "safety and tranquillity" inasmuch as the term "peace" is really included in "tranquillity"; and would include a reference to the need of mitigating religious animosities before they reach the point at which they express themselves in violence. Items (2) and (3) we accept as appropriate and sufficient. With reference to item no. (4) we would refer to para. 49 of our first despatch. So long, however, as the expression proposed by the committee is included only in the instructions, which it will be left to the Governor to interpret, we see no harm

in the adoption of their phraseology. As regards their additional suggestions, we recognize clearly the need for securing Muhammadan education; but we consider that the proposed injunction should be so extended as to ensure that the Muhammadan community get their fair share of all increased facilities. In sub-clause (2), which is designed for the protection of mission interests, we should prefer to lay down that no changes such as those referred to in the clause should be adopted "which are inconsistent with educational interests." We entirely agree that due provision must be made for the education of the depressed and backward classes; but we can see no sufficient reason for confining the scope of such an admirable injunction to the single presidency of Madras or to the interests of mere education.

90. While, however, we approve the committee's proposals generally we feel the situation requires something more. As we have said in para. 110 of our first despatch we are anxious that the Governor's instrument of instructions should make it clear that he is to use his powers "resolutely to prevent any deleterious lowering of the standards and ideals of administration which they (the Governor in Council) hold in charge for Parliament." We should like to launch this vast experiment of constitutional changes in India with a clear and unmistakable declaration of the lines on which we hope and intend that it shall be conducted. In Appendix II to this despatch we attach a draft in which we have tried to develop our ideas of what the document should be. It will be plain to you that we think the unprecedented situation requires a pronouncement differing both in contents and in tone from any colonial precedents and carrying with it something of the authority attaching in India to a Royal proclamation.

Transferred list.

91. The subjects proposed by the committee for transfer are shown in the list in section III—3 of their Report. We consider that the list regarded as a whole is a good one and calls for comparatively little criticism. But there are a few matters of the first importance in regard to the treatment of which we find ourselves in disagreement with the committee, and some others of lesser moment on which we desire to offer comments.

92. *Item 2.*—We assent to the transfer of medical administration with the exception of medical schools and colleges which, for the reasons given in para. 107 below, we think should be treated as a reserved subject, and brought into close relation with the committee's *item 42* in their provincial list.

93. The committee's attitude towards the very difficult question of education (*item 4*) is succinctly indicated in para. 45 (1) of their report. They received various suggestions for the division of the subject of education, but came to the conclusion that any partition was unsound and unworkable: and they have contented themselves therefore with leaving European education as a reserved subject and transferring all the rest including university, technical and secondary education to the control of ministers. They propose, however, to exclude the Hindu university at Benares and also Chiefs' colleges, which by this means become an all-India subject (*item 39* of the all-India list); and they advise that new universities, the extra-provincial jurisdiction of universities, and in the case of Bengal and for a period of five years only, the Calcutta University and also secondary education generally should be subject to Indian legislation. They add that legislation regulating the constitution or functions of a university should be subject to compulsory reservation by the Governor. Such discriminating treatment of the subject, which leaves it partly all-Indian, partly reserved, partly transferred with limitations, and partly transferred without limitation, shows that the committee realized the great risks involved in transferring higher education entirely to the control of ministers at this critical stage in its history.

94. The opinion of local Governments is much divided. The Bengal Government desire to reserve collegiate and European education: the United Provinces Government holds that education is best treated as a whole and is prepared to transfer it, but the official committee which advised the Lieutenant-Governor were divided in opinion. The Punjab Government recognizes the

dangers, thinks that education best fulfils the canons laid down in the Report for transfer, and reserves its opinion as regards higher education. The Government of Bihar and Orissa are strongly opposed to the transfer at present of secondary, technical and collegiate education. The Chief Commissioner of Assam opposes the transfer of collegiate education. The Government of Madras would reserve education and the Government of Bombay would transfer it. In these circumstances we feel that a heavy responsibility lies upon us. We are bound to look at the matter from the broadest point of view. From the outset the reform and extension of education has been recognized as an integral part of the process of political advance. In November 1916 we wrote :—

"The first of these obstacles is ignorance.....Great efforts have been made of recent years to extend education, but the wide diffusion that we seek is still a long way off. Even more pressing is the question of its improvement..... In our judgment the system of education in this country requires the most patient reconstruction... ..... In the present circumstances the main efforts both of Government and of the public can most wisely be directed to securing a standard of higher education that shall be comparable to that enjoyed by other nations and in other parts of the Empire ..... The removal of ignorance," we added, was to be attained only by giving the boys and girls of India "an education that has fitted them for the walks of life in which their lot is cast." Only by its gradual removal could "the progress towards the creation of an enlightened and self-governing people ever be achieved."

Your own view was that

"to progressive improvement in the quality of higher education and to greater diffusion of elementary education we must largely look for the means to overcome the obstacles to political progress presented by religious and social intolerance and by inexperience in public affairs. But I would add that in other countries political opportunity has often proved the cause and not the result of the dissipation of ignorance, and that education alone divorced from political opportunity will not inculcate a sense of political responsibility. What is wanted in the India of to-day, as your proposals show that you rightly apprehend, is that the two should go hand in hand."

95. The Report on reforms recognizes the ignorance of the people as a grave obstacle to political advance (paras. 134 and 187). It observes that the progress of political education must be impeded by the backwardness of general education (para. 263). It looks to popular government to promote the spread of education (para. 153), and it contemplates that the direction of Indian education shall be increasingly transferred to Indian hands (para. 187). At the same time it proposes that the first statutory commission shall examine the development of education among the people (para. 262); and it clearly regards education both as essential to further political advance and as one of the chief tests by which the work of the new popular governments will be judged. With all this we cordially agree. Believing earnestly as we do that political enlightenment and wise education cannot be divorced, we cannot rate too highly our responsibility for the latter. The task is one which we must certainly share with the new popular governments. The complexity of the present system and its results, to both of which we shall allude in detail later, convince us that its development and improvement are far too heavy a burden for ministers alone to bear; and the main issue in our judgment is how we can best divide it. The view has been suggested to us that, inasmuch as it will be from the vernacular schools that we shall draw the mass of the intelligent voters of the future, it is our duty to concentrate upon vernacular education, and to leave English education, as a subject in which they will be more interested, to ministers. Against this view is the consideration that English education does not so much require stimulation as skilled guidance, improvement and adaptation, in the light of western experience, to the general development of the country; while it is upon the spread of vernacular education, slow and laborious in the past, that the energies of political leaders can be employed with the greatest hope of rapid success. The matter however is not one for speculative argument, but for decision on the basis of the results of our educational work in the past, and its present arrangement. After a survey of these, which in view of the gravity of the issues we make no apology for placing before you in detail, we propose to examine the arguments for and against transfer of either the whole or a definite part of our educational system, and then to make our own recommendations.

96. We may best describe existing arrangements in the words of our own Educational Commissioner :—

"The control of primary education rests with the local Governments and local bodies, in different proportion in the different provinces. Government maintains a few schools, local bodies a large number, and sometimes the Government, sometimes the local bodies aid a very large number of privately managed institutions. The curricula are fixed by the local Governments, though in our circular letter to local Governments, dated the 19th September 1916, it was stated that local bodies should have some choice in fixing curricula. The inspecting staff are Government officers, partly under the Director, partly under the district officer, and in certain matters bound to carry out orders of the board (this arrangement sounds complicated but in practice works smoothly). The schools are financed by Government and by the local bodies. The latter pay for their own schools and sometimes, though not always, disburse the grants to aided schools. But in some provinces Government aids privately managed schools. Fifty per cent. of the money classed as local and municipal funds in reality represents contributions made by the local Governments. As regards appointments in board schools, these are generally made by the boards, subject to certain rules governing qualifications, leave, pay, etc. But in the Bombay presidency the board schools are treated almost as Government schools.

Middle education is of two kinds—middle vernacular, which is often classed as primary and similarly dealt with and financed; middle English or Anglo-vernacular, which properly forms a section of secondary education and ought to be treated as such. The proper division, in fact, would be primary and middle vernacular education, and secondary, including Anglo-vernacular middle education.

Secondary institutions are managed partly by Government, partly by local bodies but mainly by private bodies. The curricula are determined partly by the local Governments, and partly by the universities. Inspection, distribution of grants, etc., are made by the local Governments. Appointments in Government schools are made by Government, in aided and non-aided schools by the managing bodies. The management and subsidy of Anglo-vernacular secondary schools by local bodies were deprecated by the Decentralization Commission and by the Government of India. Sometimes, however, as *e.g.*, in the Central Provinces, municipalities do manage secondary schools. The total number throughout India so managed is, however, small. One does not desire to see any extension of the system, since it is desirable that local bodies should confine themselves to vernacular education.

Collegiate institutions are managed partly by the Government to a small extent by the university, and to a very large extent by private bodies. Their control is divided between local Governments (the Government of India is the local Government in the case of the Calcutta University) and the universities. The universities prescribe the curricula and examinations, local Governments give grants and finally decide cases of affiliation, and hitherto the Government of India have legislated. Here also local bodies manage a few institutions, but their number is only six."

97. Apart from political changes, however, certain changes have been proposed in respect of higher education. Though their report is not yet formally before us we understand that Dr. Sadler's Commission will recommend that the Bengal universities should in matters of educational administration and policy be made much more independent of the local Government, but should come under the Government of India in respect of legislation, visitation, co-ordination, the encouragement of research and help in recruitment. They intend that the Government of India should make grants to the universities; but otherwise (except for that Government's legislative powers) the enforcement of the desired standards will be left mainly to the university's conscience and to public opinion. The commission think that on their technical side universities should be mainly self-governing bodies. Financial and administrative business is mainly assigned to one managing body, educational business to another; but close contact between the university and public opinion is to be secured by the establishment of a large and representative court, whose sanction will be required for any change in the university status and for any substantial expenditure. For the control of high schools and intermediate colleges a novel arrangement is proposed: the commission suggest that they should be regulated by a board which is to be partly advisory and partly executive, which will include representatives of the universities, agriculture, commerce and industry, medicine and education, presumably nominated. This board, they think, should enjoy freedom to act upon its own responsibility in framing and enforcing the regulations which it may find necessary for the welfare of secondary and intermediate education, and must be ultimately responsible to the Government and, in the event of final disagreement between it and Government, the will of the latter must prevail. The commission regard the chances of such a disagreement

as extremely remote, and suggest that when it occurs, special means should be taken to mark the gravity of the situation. The local Government should have power to call upon the board to resign; but if this step is taken, papers showing the points of disagreement and the reasons for Government's action should be laid before the provincial legislature.

98. The second factor in our decision must be the results of our educational work in the past, and the reasons for the acknowledged defects in it. So far as primary education is concerned, the chief defects are well-known. It is very limited in quantity; there is great wastage by the way; teachers are ill-paid, poor in quality and commanding little respect; the inspection is insufficient and indifferent; as a result the course takes too long and yields but small results; and very little of the knowledge attained remains in after life. The conservatism of the rural classes and the defects of the system have in fact reacted on each other. The people need to be awakened to the value of education as making lads better farmers instead of merely spoiling them for a rural life; and the system needs to be improved by more schools, better trained teachers, better courses and better inspection, all of which means not merely money but wise outlay of it.

99. Middle education is really two-fold and comprises both middle vernacular and anglo-vernacular. The first is associated with primary mainly by the fact that it also is conducted in the vernacular and managed by local bodies. It is far more highly organized, is mostly concentrated in towns or villages of some size, and is in the hands of better trained teachers: it attracts more promising boys and it does train their intelligence and give them a fair equipment of knowledge for the careers before them (teaching, vernacular clerkships, posts as karindas and the like). The best boys go on to English schools. Middle vernacular education, though nominally managed by local or private bodies, is to a greater extent than primary education under the supervision of the department. With the anglo-vernacular schools the case is otherwise. Here the main complaints are that owing to the commercial value of English, that language is often taught too early, and taught badly by teachers who know it indifferently themselves: that (though in this respect matters have been improved) it is occasionally made the medium of instruction too soon, with the result that boys cannot take in the meaning of what they learn and are overtaxed in attempting to do so and that memorising without understanding too often is the chief result. The boys are ill-prepared to go on to a high school and have not acquired any knowledge for any other career. At the same time there is a great demand for cheap English education; and in many parts of the country private schools are numerous, crowded and poorly equipped. Middle vernacular education marks the final stages of instruction for certain classes of the people, while the anglo-vernacular school is merely the first stage of higher or English education.

100. The accepted policy as regards high schools has been to leave their management largely in private hands. Government has maintained a certain number of high schools as models; and in some provinces it exercises control over curricula by a school-leaving examination. More generally the university recognizes schools for the purpose of presenting pupils for matriculation, and regulates by means of matriculation the courses of the highest classes. The condition of secondary education can best be presented in an extract from the last quinquennial review :—

"In the first place the apparently inexhaustible demand for secondary education, combined with the difficulty of meeting it in an adequate manner, tends to swamp the effects of reform. Existing schools are improved; but new ones spring up, lowering the average of attainment and undermining discipline. One of the Bengal inspectors, speaking of Calcutta, says that owing to the demand for any education, however bad, proprietors are able to manage their schools at the lowest limit of inefficiency without fear of loss of boys. The most necessary ingredients of education, such as discipline, social life, good physical conditions and a reasonable standard of class-work, are not demanded and therefore not supplied. Boys are able to bargain with school managers for concession rates of fees, permission to accumulate arrears and certainty of promotion. The Madras report says that schools up to or over 1,000 pupils are not uncommon, with each form and class divided into several sections, and that in such schools it is found that organisation, supervision and efficiency are sacrificed on the altar of fee-income. The effect of all this upon discipline and efficiency of teaching is

noted in some of the reports. The school often depends upon the good-will of parents and pupils, and, where public opinion is weak and uninformed and parents are only too ready to listen to the complaints of their children, the schoolboy becomes the master of his teachers. Faults are condoned and promotion from class to class is demanded under threat of withdrawal. Unwise promotion, says Mr. Mayhew, accentuates the results of defective instruction, hampers the progress of each class by the dragging weight of inefficients, and eventually clogs the matriculation class with an increasing number of hopeless cases.

"In the second place, there is still in some provinces the numbing influence of the matriculation. This affects the school in several ways. The majority of schools in such provinces still, as Mr. Hornell remarked in an earlier report, acknowledge no law and submit to no supervision or guidance other than that which the matriculation imposes on them. It is impossible that a syndicate sitting in Calcutta should control 789 schools distributed over an area of 78,699 square miles. Rules become relaxed, orders are evaded, and the influence of the inspecting staff is weakened. Again, those effects are produced which have already been observed in connection with the curriculum and the method of treating it, which is inevitably adopted when the sole end in view is the passing of a maximum number of pupils through an external examination. Nor is it only the curriculum which is narrowed. Scant attention is paid to those activities which ought to form so important a part of the pupil's environment. At a time of life when action is natural and essential to well-being the boy is forced into sedentary application to a course which often makes little appeal to him and in mastering which he receives but little assistance, while his chief recreation is frequently the perusal of highly spiced newspapers."

101. There are 129 English arts colleges of which 94 are privately managed, 70 of these being aided. During the last five years students increased by 59 per cent.; and of the total number more than one-third are Brahmins. The average cost per student is under Rs. 150 a year. Some unaided colleges are far cheaper. There is a tendency for charges to fall. There is no denying that the majority of colleges are totally understaffed and that this reacts on the life and teaching. The quinquennial report sums up matters thus:—

"The feature of the quinquennium has been the great expansion in numbers. Improvements have been effected; but these are too often nullified by the necessity of making hurried arrangements for the accommodation of additional students. The number of students per instructor is decreasing. The poor attainments of students coming from the secondary schools hamper the work of professors. Science teaching, conducted to a considerable extent in laboratories, has improved in quality. In other subjects the lecture holds the field and systematic tuition and guidance are often lacking"

Five years earlier, in spite of much that was encouraging, the complaint was—

"The weak point in the system remains the striking inequality in the efficiency of different colleges—not so much in examination results, but in the conditions of study, residence and recreation and all these things that go to make up truly collegiate life."

102. A few statistics may be given to complete the picture. The last published returns show that, taking public and private institutions together, we have 195 colleges in British India with 59,000 students. There are over 10,000 secondary schools, with 1¼ million pupils, and 177,000 primary schools with nearly 6½ million pupils. It is now for us to advise which part, if not the whole, of this great and growing field of administration should be transferred to ministers. Before we state our conclusions it will be convenient to explain the exact meaning which is attached in the following paragraphs to the expressions "primary" and "secondary" in relation to schools or education. We use the words, for the sake of brevity, in a compendious sense; the former including middle vernacular, and the latter middle English or anglo-vernacular. But the distinction which we draw is not between vernacular and English. It is between types of schools and the purposes of their work. By primary schools we mean schools which cater for the masses of the people, and in which the great bulk of the pupils are not intended to go further than a middle test of some sort. In such schools the teaching is naturally in the local vernacular. There is a tendency, more pronounced in some parts of India than in others, to add instruction in English; but this does not alter the self-contained character of the schools, or their purpose, which is to prepare the pupils for the ordinary avocations of their own class of life and not for higher education or professional pursuits. By secondary schools, on the other hand, we mean those which aim at an English education as the passport to the university or to

skilled clerical or technical employment. Schools of this type may include primary sections, in order that their courses may be continuous; but this does not detract from their character or well-recognized purpose.

103. On a review of all the circumstances, we consider that there is a compelling case for the transfer of primary education. It is that part of the field which will give the fullest and freest play to responsibility at once; it will be most responsive to patriotic effort: and it will be the nursery for the broad and enlightened electorate on which the future depends. The labour of bringing primary education up to a reasonable standard, the need for almost unlimited development, the difficulties of gradually making it free and then compulsory—these and its many other problems constitute a task which will be enough, and more than enough, to occupy all the energy and ingenuity of ministers for years to come. Heavy though the task is, in estimating its chances of success we are in general agreement with the report of a committee which considered the question in 1917:—

"At first sight this abandonment of control, by the central or provincial Government, of a department so vitally fundamental to a national scheme of education, would appear to be fraught with grave dangers. Nor are these wholly illusory. It is quite possible, even probable, that at first efficiency will be sacrificed to other considerations and that the popularly elected body will vote money for the less essential objects and neglect the provision for training and inspection. But unless an opportunity for mistakes is given, nothing will be learned. Experience will, we believe, beget greater wisdom, and that in no long time. Once it is realized that education is the business of the people, then the people will see to it that their elected representatives procure them efficient teachers in their schools. Again, it is only thus that education can become really national, and if the demand arises, as we believe it will arise, an elected council of this kind will be able to raise money for education from sources that never could be tapped by a Government of the existing official type."

104. We may say at once that to our minds there is an equally compelling case for retaining secondary and university education in the hands of the official and more experienced half of the provincial Governments. India stands to day in a critical position; and her immediate future, apart from her slower political growth, depends upon the solution of social, economic and industrial problems to which a good system of secondary education is the chief key. If we handed it over at this juncture to untried hands we should be guilty of grave dereliction of duty. We attach, as Appendix III to this despatch, three opinions upon this question which we regard as worthy of the fullest consideration: the first is from an experienced non-official Indian educationist who writes with first-hand knowledge, though we regard the second sentence of his opinion as too sweeping; the second is the opinion of two officials with special knowledge of educational administration, one of them being an Indian; the third is from the pen of a recent Vice Chancellor of an Indian university. We cannot question the general accuracy of the picture which is here presented, or the conclusions which are based upon it: nor can we avoid the proposition that the time has not come when such important issues as progress and reform in higher education can be committed to the ordinary machinery of the provincial legislatures.

105. The committee have taken a different line. In their recommendation that education as a whole should be handed over to ministers, they have been swayed by one main consideration [para. 45 (1) of their report], the belief that education is impartible. They have concluded that a line of division cannot be drawn through it without raising difficult questions and producing serious administrative complications. For the theory of indivisibility they rely on a statement by Mr. Hornell that "the existing educational system of India is an organic whole," which it is impossible to modify by compartments. This assertion we believe to be too sweeping. Theoretically it is true that the business of education, like the business of government, is one connected whole and must be inspired by one common purpose. But in practice the argument can be pressed too far. University and secondary education must remain in the closest association, as all our experience and enquiry show; but the bond between secondary and primary education is far more elastic. Between these two indeed there is already in existence a clear line of demarcation, resting not differences of finance and controlling agency, and emphasized by differences in

the type of school and—what is more important—in the type and age of the pupils. No difficulty is experienced by those provinces where the policy is thoroughly pursued in keeping the control of primary schools under local bodies and the control of secondary schools under the provincial government and the university; and we do not know what are the "serious administrative complications" inherent in such a division which seem to have been pressed upon the committee. Our hope indeed is to make the division still sharper. We have long felt that primary education as a system requires for its satisfactory expansion a directorate and an inspecting organization of its own, and not merely a share in a staff which is occupied with higher education as well. With this reform we should couple the provision within the primary organization of institutions for training all grades of primary teachers; and we should thus get rid of the apprehension that the independence of the primary system would be impaired by its having to go to the secondary system for some at least of its schoolmasters. We cannot thus regard the theory of the impartibility of education as a practical obstacle to dividing the control of primary from the control of secondary and university education, so long as there is good administrative reason for doing so.

106. An argument which probably weighed with the committee, for it has often been urged on us, is the keen desire of many Indian publicists to obtain control of higher education. They do not regard official management as having been a conspicuous success; and even those who do not misunderstand our motives consider that we have been too cautious in its development, too ready to sacrifice quantity to quality. They argue also that ministers will gain experience in the control of higher education by their mistakes, that mistakes will not be irremediable, that changes for better or worse will be easily ascertainable, and that if political progress is to depend on education it is only fair that the whole subject should be transferred and the power of developing it placed in the hands of those who are most interested in the consequences. The argument indeed is pushed even further: we are told that Indian opinion is so strongly set upon the entire control of education that to withhold any part of it will imperil the harmony and good-will with which we hope that the new régime will start. We cannot accept this extreme presentation of the case. We do not deny the general desire of progressive Indians to assume complete responsibility for education, or the disappointment that many will feel if this is not conceded. But there are minority interests which view the prospect of transfer with grave apprehension and have opposed it with all their strength. In any case the future welfare of India is too closely bound up with this decision to allow of sentiment overruling the obvious practical considerations. In particular we would demur to the free application, in the matter of higher education, of the doctrine that the mistakes of inexperience are of little account and can easily be corrected.

107. The practical considerations to which we appeal have been touched upon above. We could supplement them by many concrete instances of the unhappy consequences of entrusting higher education too confidently to private enterprise. We have seen what has happened already in provinces where high school and collegiate education has been allowed to pass largely into non-official control. The worst developments of such a system are described in the Bengal district administration and the Rowlatt reports. We have recently watched the deterioration of a fine private college in northern India under political influences. If further reasons were needed to reinforce our view we should derive them from the present condition of scientific and technical knowledge in India. It is admitted that one of the greatest needs of the country is industrial development and wider openings for her young men in the scientific and technical professions. It is accepted that the public services must be recruited in future to a greater extent in this country. At the same time it is recognized that the possibility of these developments without a deterioration in standards lies to a very great extent in improving and extending the facilities in India for higher learning, particularly on the technical side. We cannot in the face of these plain requirements assent to a proposal to place the control of the legal, medical, engineering, technical and industrial

colleges or schools of India in inexperienced hands. After the maintenance of law and order there is no matter for which the responsibility of the British Government is heavier.

108. Before leaving this subject we may revert to the argument that our educational policy has not been a success in the past. That it has at times been lacking in foresight and perspective we do not deny. During the lean years education received only such funds as were available after more imperious needs had been satisfied. Too large a proportion of the money that was forthcoming was devoted to higher education. In making the distribution which they did, our predecessors perhaps yielded too easily to the wishes of the only classes which were in a position to press their views, and took too little account of the need of building up a sound and well-proportioned system adopted to the economic and political needs of the country as a whole. In particular they were content to let higher education pass more and more under non-official control. For the course which they took we do not doubt that they had reasons which seemed to them good and we have no desire now to allocate blame. We admit the errors of the past and we ask for time to repair them: their reparation is perhaps the most urgent task before us, if constitutional changes are to bring to India the happiness which we hope. For these reasons we accept the committee's proposal to transfer primary education, and we strongly dissent from their proposal to transfer secondary, collegiate and technical (including medical and engineering) education. Reformatory schools should in our opinion be treated as a portion of industrial education.

109. Certain subjects or parts of subjects have been recommended for transfer "subject to Indian legislation." We have already explained (para. 12) our reasons for holding that it is not possible to restrict the transfer of any subject in this manner and in view of this decision it is necessary to amend *items 1, 9, 12, 13, 16* and *17* of the transferred list.

Item 1.—We would omit all the words after "Cantonments Act." Borrowing by local bodies inasmuch as it necessarily affects the Indian market is a matter of concern to the central Government. It should be regulated by Indian legislation, but such legislation should be included in the rules to be framed under section 79 (3) (*i*) of the Act and not open to local amendment even with previous sanction.

Item 9.—We are prepared to accept the committee's recommendation that co-operative societies should be transferred, and to go further than the committee in transferriing the subject without restriction. The sphere of co-operation is one which we think affords admirable scope for giving ministers a wide discretion.

Item 12.—Similarly we would transfer the registration of deeds and documents without restriction. It is true that the matter is of great importance to owners of property and to business interests. We do not anticipate that there will be any strong disposition on the part of provincial legislatures to disturb the well established lines on which it is now administered, but think that it will be well to protect the Indian Registration Act against any modification without previous sanction.

Item 13.—As the committee have pointed out in their remarks on *item 21* of the provincial list, Indian legislation in regard to the registration of births, deaths and marriages affects a comparatively small portion of the population. Hindus, Muhammadans and Buddhists are beyond its purview. We do not consider it necessary to make such registration subject to Indian legislation in the case of this small minority, and are prepared to transfer the subject without restriction.

Item 16.—We would omit the words after "articles". The regulation of the export and import of adulterated articles is clearly a matter for all-India regulation, and there is no need to give provincial legislatures a limited voice in it.

Item 17.—There is little uniformity at present in the standards of weights and measures throughout India, and we are prepared to transfer the

subject. If in consequence of international conventions or otherwise the need for securing uniformity by legislation arises there would be a clear case for the exercise of the central Government's overriding legislative powers.

110. We have suggested (para. 57) that "pilgrimages within India" be added to *item 3* of the provincial list. We would also make it a transferred subject by adding it to *item 3* of the transferred list.

111. The committee have recommended that all provincial buildings [*item 5 (a)*] should be transferred. To accept this proposal would mean that the provision of funds for such buildings as district offices, civil courts, and police stations will be regulated by the minister in charge of the Public Works Department since provision for such expenditure is made in the Public Works Department budget and not in the budget of the department concerned. The departmental budgets contain provision for such works only as the department is prepared to carry out. All works carried out by the Public Works Department are provided for in that Department's budget. We cannot, however, place ministers in the difficult position of having to decide between the claims upon their budget of reserved and transferred departments in the matter of buildings, or give them power to refuse to budget for buildings pertaining to reserved departments which the members in charge of those departments consider to be necessary. The transfer of provincial buildings should therefore be restricted to those buildings which are connected with transferred departments, and the buildings of reserved departments should be reserved. We recognise that since the control of the Public Works Department generally, including the control of the staff, is to be transferred, the minister will still be in a position to deny buildings to the reserved departments by refusing to carry out building schemes for which budget provision has been made. If such a difficulty presents itself the Governor must be left to deal with it: recourse to private contractors may prove to be a useful alleviation; but in any case it presents less serious prospects of trouble than the arrangement which we seek to avoid.

112. It follows from the changes which we have proposed above (para. 30) in *items 6 (a)* of the all-India and *5 (d)* of the provincial lists that *item 5 (d)* of the transferred list should be omitted. Consequential changes are also required in *item 5 (b)*.

113. *Item 8.*—The committee support their proposal to transfer fisheries by the argument that the subject should not be separated from the cognate subjects of industrial development and co-operative credit. If, however, our proposals in para. 120 below are accepted, industrial development will be a reserved subject and the argument ceases to have weight. We incline ourselves to the view that fisheries are as closely connected with agriculture as with any other subject; and we agree that agriculture (*item 6*) should be transferred. We see no particular reason why fisheries should be treated in the same way in all provinces, but on the other hand we can find no strong reason for reserving fisheries in Madras, if agriculture is transferred. On the whole, we are prepared to accept the committee's proposal.

114. *Item 10.*—Bombay is the only province in which the transfer of forests is tentatively advocated by the committee. Their suggestion is strongly opposed by the Inspector General of Forests, who fears that inexpert management may result in the destruction of valuable commercial assets. He urges that if it is thought necessary for political reasons to embark on what he regards as a dangerous experiment, its scope should be confined to the comparatively restricted forest areas of the Central Circle. We realize the force of the Inspector General's arguments, but on the whole are prepared to accept the committee's suggestion as it has the Bombay Government's support. We have no objection to the transfer of forests which serve particular villages or groups of villages to local bodies subject to schemes of management to be approved by the Governor in Council. The questions of the powers of the Inspector General and of control of the senior appointments in the provinces will require further consideration.

115. *Item 11.*—The chief difficulties in regard to the transfer of excise have been noticed by the committee. We approve the safeguards

provided to protect the interests of the Government of India as both necessary and sufficient. The question of the staff in Bombay and Madras will receive our careful consideration when the time comes. Difficulties are likely to occur with a staff which will be under ministers in respect of their excise duties and ultimately under the Government of India in so far as their work is concerned with salt. The only satisfactory solution may be a complete separation of the staff of the two departments, but we see no reason to defer transfer until such a separation has been effected. We would postpone consideration of the problem of staff until we have some practical experience of the difficulties involved. While we recognise that in some provinces popular opinion may lead the legislature to take steps in the direction of total prohibition, and while we appreciate the dangers from this course of the spread of illicit practices, as well as the inconveniences which may be caused more particularly to those classes to whom drink is no real danger in India we are yet prepared to transfer excise at once. We fully realise that excise occupies a special position in Madras from the revenue point of view, but regarding the matter from the broader ground of general principles we agree with the committee that excise conditions are not so peculiar as to justify its reservation in that presidency. We agree also that excise should be a reserved subject in Assam.

116. *Item 15.*—We come now to the vital question of industries. This is practically speaking, a new administrative subject, the future importance of which has been strongly emphasised in para. 336 of the Report on Indian constitutional reforms. It is moreover a field where the divergence of racial interests is likely to make itself felt with some acuteness. The committee have made the following proposals:—

(1) that the development of industries be made a provincial subject, except for the matters covered by *items 20* and *30* of the all-India list (articles whose production, etc., requires control in the public interest; and central research institutes), and for heads, such as that of geological survey (*item 22*), which relate closely to the development of industries.

(2) that the development of industries be made a transferred subject.

The committee have evidently felt that this allocation of responsibilities is not free from objection, since they admit in para. 45 of their report that they have vainly tried to draw any clear line between local and other industries, or to frame a distinction based on the relative importance of different industries. To draw any such distinction is, we agree, impossible; but the conclusion to which the committee have been led in consequence does not commend itself to us. Our own conclusions are, briefly, that the development of industries should be concurrently undertaken by the local Governments and the Government of India; and that this subject should, so far as local Governments are concerned, be reserved. Our reasons for these conclusions will be stated as briefly as possible.

117. In the first place we hold that the central Government cannot possibly divest itself of responsibility for the industrial progress of the country, which is necessary to secure its military safety, its freedom from outside economic aggression, and its social and political stability. The Government of India's control of railways, tariffs, foreign trade relations and intelligence, the central scientific industries and such services as the geological survey, further emphasises their responsibility in respect of industries. That responsibility should, we think, be discharged by furnishing advice and help to local Governments, by co-ordinating their efforts and by working concurrently with them, rather than by direct control. Secondly, the expenditure on many of the measures necessary for industrial progress is very high. Research and industrial experiment are exceedingly costly in proportion to their results in any one part of the country; without a large and highly specialised technical and scientific staff, mere administrative effort will be barren; nor are either the finances or the requirements of local Governments extensive enough to enable them to give appreciable assistance to large enterprises by loans, guarantees or undertakings to purchase products. The scale of some of the individual enterprises which have recently

in the Punjab in 1913, with the added difficulty that the responsibility for failure will be thrown on the Government as a whole, and not on the minister himself.

120. There remains, however, a still more serious objection. It is our earnest desire that the industrial policy of the country should be directed to securing for Indians the fullest possible participation in future industrial development. The proposals of the Industrial Commission seem to us admirably adapted to secure this end. The Indian press, on the other hand, appears to see in the Commission's report an attempt to rivet the chains of British economic domination still more firmly on the country. This tendency was particularly noticeable in the extremist press, but was not entirely absent from papers of more moderate tone. A policy which seems to us to afford means of assistance especially calculated to benefit Indian enterprise is apparently considered insufficient if it also allows encouragement to British capital to come into the country and to British enterprise to profit any further by the economic resources of India. In such circumstances we are not surprised to find European non-official opinion expressing very definite apprehensions lest an increasing degree of self-government should bring with it an increasing degree of racial discrimination. We do not desire to magnify unduly the extent to which the encouragement of new enterprise can be used to affect the success of future British effort. But we apprehend that until a far greater sense of responsibility than at present is established among the electorate and the representative assemblies, considerable pressure may be exercised on ministers to refuse any form of aid or countenance to British enterprise and to favour Indian undertakings, especially those backed by political influence, irrespective of their business merits or equitable claims to consideration. The inevitable result would be that the large modern firms, European or Indian, which have as a rule nothing to hope from political influence, but are accustomed to businesslike methods and equitable treatment, would inevitably apply to the Government of India rather than to local Governments, if the latters' functions in respect of industrial matters are in the hands of ministers. This would lead to an undue degree of centralisation, and would devitalise provincial efforts by depriving them of this most promising field of action. We therefore conclude that industries, including in this term industrial education, though they should be a provincial subject with a right of concurrent action secured to the central Government, should for the present be reserved in all provinces. We have already recommended that a new item should be inserted in the all-India list: and we would also omit *item 15* from the list of transferred subjects.

The Public Services.

121. In section IV of the report which deals with the public services the committee have a few variations to propose from our own proposals. They had these before them, but in a condensed form; and it may be that where the committee have departed from our proposals without giving reasons for doing so, our intentions were not always clear to them. In para. 70 the committee suggest that the demarcation between the provincial and subordinate services should be left to the provincial Governments We think it important at the outset that the provincial services should be everywhere constituted on more or less uniform lines, for which reason we suggest that your sanction should be necessary to the local Governments' proposals. After the scheme of reforms has come into operation it will be open to the local Governments to vary the provincial services within whatever conditions may be laid down. The professional division will probably include not merely officers recruited on special contracts, but also officers holding appointments requiring special qualifications, which lie outside the ordinary ranks of the administrative services. We do not understand the difficulty which the committee feel about the proposal that each new permanent post should be added to the cadre to which its duties correspond. It was intended to prevent the services from being substantially altered by the device of creating new posts outside them for the purpose of providing for duties properly appertaining to the service; and for that purpose it seems to us necessary. The committee's proposals respecting temporary additions to the service and rules for allowances and foreign service are in accord with our intentions.

122. The committee agree with us that the Governor in Council should not be brought in as a formal arbitrator in public servants' grievances. They propose that the formal concurrence of the Governor should be required before any order affecting emoluments or pensions, or conveying censure, or disposing of a memorial, can be passed in the case of all-India officers in transferred departments. We accept this suggestion as formalizing our own intentions; the matter can be regulated by the rules of executive business which we propose should be made.

123. On the assumption that the administration of medical matters will be a transferred subject, to which with the limitations already intimated we are prepared to agree, the committee suggest that the private practice of I. M. S. officers should be regulated by rules laid down by you. We accept this suggestion. The enjoyment of private practice is admittedly one of the fundamental conditions of medical service in India, and we agree that the privilege within due limits should be secured by regulations which it is beyond the competence of ministers to alter. We agree also that inasmuch as the value of private practice depends directly upon an officer's station, the posting of I. M. S. officers should require the Governor's concurrence; but in this respect we see no need to distinguish between one service and another. The posting of all-India officers is a matter in which we should expect the Governor in any case to interest himself personally.

124. The committee's next proposal is that any order adversely affecting any officer of an all-India service, whether serving in a transferred or reserved department, shall, before issue, be considered by both halves of the Government deliberating jointly. We cannot accept this proposal, which runs counter to our leading principle of defining clearly the respective responsibilities of both halves of Government. So far as transferred subjects go the proposed arrangement comes near to formal intervention by the Governor in Council, against which we have definitely advised. So far as reserved subjects are concerned we can see no reason whatever for bringing in ministers except as a purely reciprocal arrangement. Our views have been stated at length in paras. 103 to 108 of our first despatch, and therefore we need not pursue the matter further here. As regards appeals we abide by our suggestion made in para. 48 of the same despatch that disciplinary orders passed by ministers, which affect emoluments or pensions, should be open to appeal. We agree that orders for the posting of I. M. S. officers should not be regarded as orders falling within this category. So far as officers serving with both halves of Government are concerned we prefer the arrangement proposed in para. 51 of our first despatch to the committee's suggestion on page 48 of their report. The committee's next suggestion appears to us to be already secured by the proposals in para. 52 of the despatch. We understand that the committee wish to treat recruitment for the transferred provincial services as a mixed subject. Our view is that a minister, desiring to see any change made, would approach the Governor, who would certainly take action as in para. 103 of our despatch; but we consider that pending legislation the matter should be regarded as a reserved subject and should not be removed from the jurisdiction of the Governor in Council. We agree with the committee's proposal respecting the administration and discipline of the provincial services. Finally the committee suggest that so far as possible the members of all-India services should be secured in the benefits of the conditions under which they were recruited. We are heartily in accord with this aim; but we leave it for you to decide whether it is practicable to give a binding declaration to the effect that the conditions of the all-India services shall never be altered to the detriment of existing incumbents. That is a principle of administration which normally is thoroughly well recognized. But there are times when overriding considerations present themselves. It cannot be denied that the conditions of service, to interpret the term in the widest sense, are likely in the near future to be altered to the detriment of present incumbents by the process of reforms. The services themselves recognize this, and generally have no desire to oppose their vested interests to the cause of reforms or to changes thereby necessitated; but on the whole it seems to us that such a declaration as the committee suggest might give rise to controversy. We believe that it would in any case be ineffective.

The only substantial safeguard that we can oppose to alterations prejudicial to the interests of the services is of a different character, and consists in the real danger of destroying recruitment. We see no need for the present to discuss the questions raised in para. 71 of the report. Details of the kind will arise for consideration under various heads : and the question how far the Government of India should control or intervene in the highest departmental appointments within the province is a matter which may be considered at leisure.

Finance.

125. We come now to the committee's treatment of the question of finance. As they explain in para. 84 they felt unable to consider the important proposals developed in paras. 64 to 73 of our first despatch, which circumstance from no fault of theirs necessarily affects the value of their contribution to the discussion of provincial finance. They have naturally not dealt with the question of provincial resources nor with the relaxation of superior control, respecting which matters we would refer you to paras. 58 to 61 of our despatch of March 5. The committee's comments in para. 73 upon our proposals for audit appear to call for no notice.

126. In para. 74 of the report the committee make certain observations upon the position of the finance department. With reference to clause (*a*) we may explain that we do not contemplate any formal reference of the finance department's opinion to the legislature. It will be available if the legislature or the committee on public accounts should call for it. Clause (*b*) discusses the finance department's relations to policy; this point is disposed of by para. 74 of our first despatch. In para. 75 (*iii*) of that document we have anticipated the committee's next remark. Their last point does not seem to us to be of much importance. Even if the Governor directed an irregularity by way of excess over the budget provision or of re-appropriation, it would still be reported to the committee on public accounts.

127. The committee (para. 75) have generally accepted our proposals for the sources of taxation to be assigned to provinces. As regards their comment on the phrase " unearned increment on land " we may explain that what we had in view was the rise in value of building sites near towns. We are not sure if any reference to the permanent settlement was present in the committee's mind; but we think it unnecessary to speculate how future political changes may affect that question. The term " unearned increment " would no doubt cover rises in the value of agricultural land; but in temporarily settled areas the resettlement of the land revenue takes account of these. We did not ourselves intend enhancement of revenue to be comprised in our proposals for taxation. We reserve for closer consideration the question of further taxation on transfers of immoveable property otherwise than by succession. We see no real difficulty about collecting new sources of provincial revenue by means of stamps. The fact that they were collected by such means would not necessarily make them all-India; the problem is only one of definition.

128. The committee's observations upon the procedure for obtaining provincial taxation in paras. 76 and 77 will not apply if our proposals for the separate purse are adopted. We note that provincial taxation does not appear in their list of transferred subjects. Their observation that the department which is appointed to collect the tax should be entitled to a hearing on the subject of its responsibilities, is covered by paras. 73 and 103 of our first despatch. We agree with the suggestion made in para. 78 of their report. In para. 79 they point out that revenues can be raised and abated without process of legislation and indeed only partly with reference to revenue considerations. The committee's suggestion for the treatment of such matters by the separate halves of the Government is met by our proposals for the separate purse; indeed the view they take upon the point goes far to reinforce our arguments. Their suggestion in para. 80 upon the subject of borrowings has been anticipated in paras. 62 and 72 of our first despatch. Their proposals in para. 81 of the report for the treatment of provincial balances are, we think, disposed of by our recommendations in para. 70 of the same paper.

129. Para. 82 of the report raises a question with which we have not so far dealt. We agree that it is as necessary to define the normal sources of local taxation as of provincial taxation. A local body may attempt to appropriate to its own purposes sources of revenue that are really provincial as well as sources that are all-Indian, but it seems to us sufficient to prescribe that the existing scope of local taxation, so far as it lies outside the provincial schedule, may not be exceeded without the previous consent of the Government of India; we may leave it to the provincial Governments to protect their own revenues against the incursion of local bodies' taxation. As regards para. 83 of the report we think that borrowings by local bodies in the Indian market should be subject to the same control as at present.

Conclusion.

130. We desire to bear testimony to the ability and thoroughness with which the committee have discharged a very difficult task, and have presented us with a scheme which with the modifications that we have suggested, we accept as a practical solution of the problem. Compared with the simplicity of present arrangements it is necessarily complicated. So far as reserved subjects are concerned we do not think this greatly matters. The cardinal principle laid down in para. 24 of the committee's report will enable control to be exercised where necessary in an effective and at the same time a flexible manner. In the case of transferred subjects we realize that there are necessarily several points of contact on which difficulty may arise between the popular part of the provincial Governments and the Government of India, as for example in the case of excise, education and medical administration. At the same time we readily accept this possibility as part of the price of our reforms. We think that the committee have been successful in avoiding intricacies, and in rectifying frontiers as far as possible. We must rely for help in the solution of difficulties on the Governor's powers in relation to ministers; and also on the fact that the Government of India, being agents for Parliament which must remain the paramount authority, can never sink to the level of a merely federal government. In all its main aspects therefore and with the modifications which we have suggested we cordially accept and endorse the committee's scheme.

131. Our colleague Sir Sankaran Nair has stated in a separate minute the extent to which he dissents from our conclusions.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

(Signed) CHELMSFORD.

" C. C. MONRO.

" C. S. NAIR.

" G. R. LOWNDES.

" W. H. VINCENT.

" J. S. MESTON.

" T. H. HOLLAND.

" R. A. MANT

SECRET

MINUTE OF DISSENT.

1. I have pointed out in my Minute of Dissent (paragraph 13) the hardship to a Minister who is compelled to accept subordinates who will not loyally co-operate with him. I have also pointed out (paragraph 14) the great objection to allowing those subordinates access to the Governor to contest the Minister's decisions. The Committee now suggest, differing from the Government of India on this point, that new permanent posts may be created which need not be added to the cadre of the Service as proposed by my Colleagues. This will enable the Minister, with the consent of the Secretary of State, to create new posts for duties to be performed under him. The fear that the Minister may create such posts was the very reason that influenced my Colleagues to insist that these should be made a part of the cadre. The Committee also propose that where both reserved and transferred departments are affected, the recruitment of an officer should be dealt with like other mixed cases, *i.e.*, in the case of a difference of opinion between the Executive Council and the transferred department, the decision should rest with the Governor. I take it that the sanction of the Secretary of State will have to be finally obtained for the creation of a new post. This meets the first part of my objection (paragraph 13) and I therefore accept the proposals of the Committee in preference to those put forward by my Colleagues.

2. One of the most important questions is how are differences of opinion between the Minister and the Legislative Council on the one side and the Executive Council on the other to be settled. I have pointed out in my Minute of Dissent (see heading Transferred Departments) my strong objections to the proposals put forward by my Colleagues on this point. The question then was under the consideration of the Functions Committee. Their proposals will now be found in paragraphs 60 to 63 of their Report. They differ in very important respects from the proposals of my Colleagues, and meet, to some extent, the objections which I have advanced.

3. According to my Colleagues, in cases of differences of opinion the Governor might assume control of the administration of the transferred departments until the causes of difference disappear. Their various proposals are likely to cause great friction. Naturally therefore they want the power of resumption of the transferred departments as a "deterrent of factious and irresponsible action by the Minister and the Legislative Councils." They will not allow the opinion of the legislature to prevail ultimately against that of the Governor. They would further empower the Secretary of State finally to retransfer any or all of the subjects from the transferred to the reserved list (paragraph 102). In cases of dispute between the Minister and the Executive Council where the interests of both the departments—transferred and reserved—are involved, they will allow the Governor to decide only the question of jurisdiction; *i.e.*, the question as to which department should deal with the matter (paragraph 103). As I have pointed out in my Minute of Dissent, all these proposals go, in my opinion, against the Reforms Report, and they are not endorsed by the Functions Committee, who differ from the

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Government of India in almost all these proposals. The Committee do not endorse the proposal for the transfer of any subject from the transferred to the reserved list. The Governor will always have to find a Minister to administer the transferred department, *i.e.*, an elected member of the Council who alone is always to be responsible for that department; but it is never to be administered by the Governor in Council and the Governor himself only administers it as a substitute for the Minister during the interval between the dismissal of one Minister and the appointment of another. This, of course, is very different from the proposal of my Colleagues which enables the Governor to keep the portfolio in his own hand until the Legislative Council yields to his wishes. According to the Committee, the Governor is to decide not only the question of jurisdiction but also all cases of disagreement between the Executive Council and the Minister. He will have to enforce compliance however by the Executive Council under section 50 of the Government of India Act if they prove obdurate but can require action by the transferred department in ordinary cases only if he can find another Minister but in *mergent* cases can dismiss the Minister and take the necessary action himself. But he has soon to find the Minister. Emergency is thus provided for. The transferred department will always continue as such. This is reasonable but it may be doubted whether the simpler method in the Reforms Report under which the Governor's decision is declared to be the order in the case is not preferable.

The *temporary* nature of the resumption by the Governor and that also *only* in cases of emergency is essential according to the Committee; thereby they place the Minister in relation to the Governor in a higher and certainly not a lower position than the Executive Council. This question of transfer is so important that I venture to make again a few observations in view of what is now repeated in paragraph 87 of the despatch.

4. I cannot too strongly protest against the proposal to allow the Governor to resume the portfolio of any transferred subject and to empower the Secretary of State on the motion of the local Government and the Government of India to retransfer any subject from the transferred to the reserved list. As I have said before, it cuts at the root of the whole scheme. Let us see what this implies. The Reforms Scheme is intended to release the duly elected representatives of the people, in part at any rate, from the control of the Civil Service. The Indian opinion is unanimous that this step is necessary in the interests of good administration and is due to the failure of the Civil Service to carry out the intentions of the Parliament and of the people of England. The Governor in some provinces is likely to be a civilian for some time to come. In others he will be greatly under civilian influence. In these circumstances the provision of retransfer is, and will be received as, a warning to the Legislative Council not to indulge in a course of action which will lead the Civil Service to take that step. In fact, my Colleagues practically say so in clear terms. The Civil Service have also openly declared their hostility to any real reform. It is absurd in these circumstances to place the future of Indian constitutional reform in their hands. The reforms are a gift of Parliament, not of the Civil Service. The Parliament may take it away at any future time if they chose. The future Legislative Councils have to perform their duty to the people of India and to Parliament. But to place this weapon in the hands of the Civil Service

is in all probability to ensure the failure of Reform. They should not be allowed in future, as they have done in the past, to nullify the policy of the people of England. The scheme put forward by my Colleagues is calculated to produce that result. It creates possibilities of frequent deadlocks if the Minister and Legislative Councils perform their duty to the country and to Parliament, and makes that a reason for getting rid of responsible government.

The interposition of the Secretary of State is no safeguard as in all that I have said above, the Secretary of State has allowed himself to be merely a passive instrument in the hands of the Civil Service. I can only say that if I had felt such a standing threat necessary, I should not have asked for any substantial reform in the direction indicated and I would not have regarded it as a loyal acceptance on my part of the principle of responsible government which must now be taken to have been laid down by Parliament for application to India. I am glad therefore the Committee do not endorse this proposal.

5. The financial or budget proposals of my Colleagues are in conflict with the recommendations of the Functions Committee based on the unity of Government. The latter make the Governor practically the final judge where the functions of the reserved and transferred departments touch or overlap, including all financial questions like the division of the entire provincial revenue between the two halves of the Government or where the action taken in one department affects the other, and also make the Minister responsible for action in the transferred departments even when it is deflected by considerations affecting the reserved departments. The proposals of my Colleagues are also admittedly in conflict with the recommendations made by the Committee about taxation (see paragraphs 76 and 77), which were not before the Council when we settled our despatch dated the 5th March.

The Committee have come to the conclusion that taxation for provincial purposes should be regarded as a transferred subject. They would first set apart the contribution to the Government of India, the sums required for the service of the provincial debt and the sums that are required for the reserved services. The first two are definite amounts. The third will be definite if we assume the contribution to be the previous year's allotment or the average for a certain number of years. After setting apart these amounts, they regard the whole balance of the revenues of the province to be at the disposal of the Minister, and taxation in their opinion should be considered as a transferred subject. Any difference of opinion on any question to be settled by the Governor as a "mixed subject." This, of course, is in direct opposition to and far preferable to the scheme put forward in the Government of India despatch to which I have taken exception.

6. My Colleagues are of opinion that these and certain other proposals of the Committee which have an important bearing on the distribution of financial powers and duties between the two halves of Provincial Governments have been rendered obsolete by the more recent decisions of the Government of India in our despatch of the 5th March and have not therefore dealt with them at length. I do not think this is the right course to follow. Our despatch was subject to reconsideration in the light of the Report of Lord Southborough's Committee, who had our proposals

before them. Though our Report was no doubt more recent as my Colleagues say—the Committee's Report being dated the 25th February and ours, the 5th March—the former was not before the Members of the Council when the latter was settled. We have therefore to consider their recommendations, modify our proposals if we accept any which are inconsistent with them, or reject their recommendations on their merits. We have for that reason said in our Report (paragraph 42) that we propose to deal with the working of the new Provincial Governments whose functions are divided into the " Reserved " and " Transferred " Subjects, after a consideration of the Report of Lord Southborough's Committee.

I have already stated that the financial proposals of my Colleagues are opposed to the recommendations of the Functions Committee in paragraphs 60 to 63, and paragraphs 76 and 77 of their Report. Further, their scheme is, it appears to me, impracticable and can be shown to be unacceptable if we agree with the Committee generally about the division of Subjects. It is necessary, for this purpose, to set out briefly the nature of the scheme.

7. It is of the essence of the scheme that there should be a definite allocation to each half of the Government of the receipts from the reserved and transferred subjects respectively. To those receipts is to be added the share of the balance including all surplus that stands to the credit of each province after deducting the amounts earmarked for special purposes. The normal expenditure for the reserved and transferred subjects is then estimated and if the revenue derived by each department from its subjects is not sufficient for the expenditure, the difference is to be made good to them by an assignment from the revenue of the other departments. Obviously, therefore, the division of subjects is of the greatest importance to the scheme as the latter hinges upon the receipt of revenue by each half of the Government from the reserved and transferred subjects, respectively. Before, however, I give the division of subjects, I shall state the general objections to the scheme, for such modifications in the scheme itself or adoption of any other scheme that might fit in with the Report of the Committee.

8. It is not quite correct to say that the financial proposals of the Reforms Report scheme affecting the allocation of funds to the two sections of provincial Governments and budget procedure in provincial Councils evoked little criticism. They were criticised even by the supporters of the scheme as being among its weaker parts. But the criticism was not on the ground that the proposals conceded too much to Ministers or the Legislature. Except in the Bombay Manifesto signed by Sir Dinshaw Wacha and eight other prominent Moderate Congressmen, the proposals were criticised as being unfair to the Ministers in charge of transferred subjects and whittling down the control of the legislature by giving too wide a power of certification to the Governor. The proposal that the supply for reserved subjects should be a prior charge on the provincial revenues was attacked, and it was pointed out that Ministers driven to new taxation to be proposed on their own responsibility while possibly feeling that it may have been unnecessary if an excessive share of the provincial revenues had not been absorbed by the already fully developed reserved subjects, would very likely find themselves in an almost untenable position before the Legislative Council whose support they require. Such was the criticism; what are the proposals of my Colleagues?

9. There can be no objection to the proposed Audit and Exchequer Act or to the appointment of the proposed Committee on Financial Relations. The control over provincial balances now exercised by the Government of India also may be replaced by a few simple regulations which will increase control of the provinces over them. There may also be—it is advantageous that there should be—a common Finance Department for both halves of the Government. While it would scrutinize all proposals of expenditure, it should not, as stated by the Functions Committee, have power to criticise policy except in its financial aspect. The proposals that the right should be reserved to the central government to make supplementary levies upon provinces, that each half of the Government should have a defined power of raising the revenue to provide for the expenditure which it considers necessary, that a division should be made of the resources available for the purposes of either half of the Government, that a system of assignments of revenue by one section of the Government to the other should be introduced and other and similar proposals, will have the effect of dividing the Government into water-tight compartments without the compensating advantage of making them responsible to the Legislature; while the further proposal that Council resolutions will have only the status of recommendations to the Governor in Council as well as the Governor and Ministers, reduces the Council to as much impotence as the present Councils. The remaining proposal that the Ministers may have to resign on account of budget resolutions carried against them, is of the nature of a finishing stroke. Notwithstanding much that could be said against the Reforms Report Scheme, a number of critics rallied to its support for the reasons, among others, that it provided for a unified budget and for its being voted by the Legislature. We are now asked to treat the Council as an advisory body in all matters—legislative, financial and administrative—pertaining to the reserved departments and to reduce its financial powers as proposed in the Reforms Report Scheme even as regards the transferred departments. There is no necessity to modify that Scheme in this manner and to this extent. Assuming that all the adverse criticism to which its financial proposals have been subjected is well-merited and that it will not be possible to work it without the maximum of friction, it is still possible to retain its two cardinal features of a single budget for the province and control by the Legislature, whatever other modifications are made in it. Given a common Finance Department, a common Finance Committee of the Council, and joint deliberation by the whole Government in the settlement of the allotments, there is no difficulty of retaining these features. It is a strong point in favour of the Reforms Report Scheme of budget procedure that it minimizes the drawbacks of a system of dual government in provinces and gives both to Executive Councillors and Ministers opportunities of sympathetically influencing each other's decisions to the advantage of both and of the people of the province. The Governor, too, will be in a better position to discharge his duties as head of the whole government and promote friendly relations between its two halves. The knowledge that Ministers with their responsibility for the transferred departments have also been a party to the allotments made for reserved subjects, is calculated to induce in the Legislative Council a conviction of the necessity of those allotments and to minimize the chances of their seeking to cut them down. This will be of great moral value as it will curtail the necessity of the Governor's making use of his reserved power of certification which cannot but cause friction and conflict between him and his Executive Council on the one side, and the Ministers and the Legislative Council on the other. The financial dispositions of each year can be made with reference to the particular

requirements of that year, there will be a much-needed and most useful element of elasticity imparted to the financial arrangements, and when a proposal of new taxation is made in those circumstances, the Legislative Council will more easily persuade itself to accept it and support the Government than it can be expected to do under a system such as is proposed by my Colleagues now. The control by the Legislature must in any event be regarded as indispensable if the Reforms are to be worth anything in the eye of even the supporters of the Scheme. The unified budget could be there and for the present should be. What is put forward is a combination of the drawbacks of autocratic and responsible government with none of the advantages of the latter. Under the proposed scheme the position of Ministers will be untenable and that of the Legislature, no better than it is at present.

10. Let us see whether the scheme put forward by my Colleagues cannot be modified to preserve the unified budget and control of the Legislature, and meet generally the objections which they have advanced against a unified budget. The proposal to divide the free balance and to divide the surplus may be accepted. We may also provide for the contribution of the province to the central exchequer for the charges for existing loans and, if necessary, earmark a sum in provinces liable to famine for famine fund ; and, as stated by the Functions Committee, allot a sum for the reserved services. The Committee themselves do not mention how that sum is to be ascertained. We may take the amount of the previous year or the average of the three years. Then instead of a definite allocation to each half of the Government of the receipts from the reserved and transferred subjects respectively, we may divide the amount available in certain proportions between the two halves of Government. The proportion, of course, will depend upon the subjects transferred. The share allotted to the reserved department will provide for the normal growth of the reserved services. The non-official Members of the United Provinces Legislative Council at their meeting on the 13th August 1918 suggested a share of one-tenth for the reserved department. Any additional amount required may be allotted by the Legislative Council.

11. A proposal was noticed in the Reforms Report to appoint a joint committee representing both official and non-official views dealing with both reserved and transferred subjects which should hold good for a certain period, always supposing that it can be varied in the meantime by agreement confirmed with the assent of the Legislative Council. The suggestion was rejected by the authors of the Reforms Report on the ground that the Governor's decision would be more popular with Indians. Speaking generally, it may be said that *if* an impartial committee could be had their decision would undoubtedly be more satisfactory. Under any scheme, the provisions in the Reforms Report which are endorsed by the Functions Committee that the resolutions of the Legislative Council should be binding on the Minister so far as his allotment is concerned and should be binding on the Executive Council so far as the application of their amount is concerned with a power to the Governor to restore any provision so far as the reserved departments are concerned if he thinks it necessary for the administration of those subjects, should be maintained. There is no harm in giving such power if the claim of the reserved departments is limited to a share as proposed.

12. We may now consider these various schemes including that in the Reforms Report with reference to the proposals of the Functions Committee about the division of subjects. And I hope to show that the scheme put forward is far better than the scheme of the divided purse based upon the division of subjects put forward by my Colleagues. The administrative machinery, it appears to me, would run

smoothly, no invidious distinction would exist between Councillors and Ministers or Reserved and Transferred Departments. The Legislative Council would have the same control as allowed to it by the Reforms Report Scheme. There would be no occasion for referring proposals for taxation to the Grand Committee as required by the scheme of my Colleagues. This removal of all question of taxation from the Legislative Council, it appears to me, is a fatal objection. With reference to the division of subjects, it would also appear that the Reforms Report Scheme is far preferable to the scheme of my Colleagues.

13. The following table shows the division of the list of Provincial subjects between the Reserved and Transferred Departments. The omissions are immaterial.

List of Provincial Subjects.

Reserved Subjects.

1. Irrigation and Canals, Drainage and Embankments, and Water Storage.
2. Land Revenue administration, as described under the following heads:—
   (*a*) Assessment and collection of land revenue; (*b*) Maintenance of land records, survey for revenue purposes, records of rights; (*c*) Laws regarding land tenures, relations of land-lords and tenants, collection of rent; (*d*) Court of Wards, Encumbered and Attached Estates; (*e*) Land Improvement and Agricultural Loans, (*f*) Colonization and disposal of Crown lands and alienations of land revenue.
3. Famine Relief.
4. Land acquisition.
5. Administration of Justice.
6. Administrator-General and Official Trustee.
7. Judicial stamps.
8. Development of mineral resources.
9. Industrial matters included under the following heads:—
   (*a*) Factories; (*b*) Settlement of labour disputes; (*c*) Electricity; (*d*) Boilers; (*e*) Gas; (*f*) Smoke Nuisances; and (*g*) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing;
10. Police, other than Railway Police.
11. Miscellaneous matters:—(*a*) regulation of betting and gambling; (*b*) prevention of cruelty to animals, (*c*) protection of wild birds and animals, (*d*) control of poisons, (*e*) control of motor vehicles, and (*f*) control of dramatic performances and cinematographs.
12. Control of Newspapers and Printing Presses.
13. Coroners.
14. Criminal Tribes.
15. European Vagrancy.
16. Prisons and Reformatories.
17. Pounds.
18. Treasure Trove.
19. Government Press.
20. Franchise and elections for Indian and provincial legislatures.
21. Regulation of medical and other professional qualifications and standards.
22. Control of members of All-India services serving within the province, and of other public services within the province.
23. New provincial taxes, that is to say, taxes included in the schedule of additional provincial taxes (v. paragraph 75), so far as not included under previous heads. But see paragraph 76 of the Report.
24. Borrowing of money on the sole credit of the province.
25. Imposition of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject.
26. Any matter which, though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.
27. Provincial Law Reports.

Transferred Subjects.

1. Local Self-Government, that is to say, matters relating to the constitution and powers of Municipal Corporations, Improvement Trusts, District Boards, Mining, Boards of Health and other local authorities established in the province for purposes of local Self-Government.
2. Medical administration, including hospitals, dispensaries and asylums and provision for medical education.
3. Public Health and Sanitation and Vital Statistics.
4. Education.
5. Public Works included under the following heads:
   (*a*) Provincial buildings:
   (*b*) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance.
   (*c*) Tramways within municipal areas; and
   (*c*) Light and Feeder Railways, and Tramways, other than tramways within municipal areas.
6. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.
7. Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases.
8. Co-operative Societies.
9. Excise.
10. Registration of deeds and documents, subject to Indian legislation.
11. Registration of Births, Deaths, and Marriages, subject to Indian legislation for such classes as the Indian legislature may determine.
12. Religious and Charitable endowments.
13. Development of Industries, including industrial research and technical education.
14. Adulteration of food-stuffs and other articles, subject to Indian legislation as regards export trade.
15. Weights and Measures, subject to Indian legislation as regards standards.
16. Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.
17. Fisheries.
18. Forests in Bombay only.
19. Ports.
20. Inland Waterways.

14. It appears to me that there is a fundamental objection to the proposal of the Government of India to make the division of subjects any basis for the allocation of revenue. The division of subjects is made on certain considerations which have nothing to do with the revenues derivable from those subjects. The Functions Committee were invited to make this division in accordance with certain considerations set out in the Reforms Report which had nothing whatever to do with the funds to be placed at the disposal of the two halves of the Government respectively. The Report of the Committee shows that they had in view those considerations and none other. My Colleagues, therefore, I think, are not justified in allocating to each half of the Government the revenues derivable from the subjects allotted to those halves on considerations which had nothing to do with the incomes therefrom. It is possibly this fact which made the Committee recommend that taxation should be a transferred subject, because they must have felt that the division of subjects ought not to carry with it the allocation of the revenues derivable from those subjects or the right to raise revenue by taxation from those subjects. If therefore we accept generally the recommendations of the Committee about the division of subjects, I think we are bound also to recognise the fact that they must have felt that the administration of transferred subjects could not be carried on with the revenue derivable from those subjects, and therefore the right to impose taxes, including those which are referred to in paragraph 75 of the Report, must be given only to the Minister in charge of the transferred departments and should not be a reserved subject.

15. It will appear from this table that the chief earning departments come under the "Reserved" head. The executive council will benefit not only by the normal growth but will be able to increase their land revenue by executive action without recourse to the Legislature. The great spending departments on which the real progress of the country depends are the first six items in the list of "Transferred" Subjects. There is very little doubt that the Executive Council in charge of the "Reserved" departments will seldom be under the necessity of claiming any contribution from the Minister in charge of the "Transferred" department for the administration of their subjects. The Minister, on the other hand, will never have a sufficiency for his expanding departments. He will always want the full amount which can be obtained from his Subjects and much more. His Subjects are not expanding sources of revenue. Excise ought not to be, and in Indian hands will not be, an increasing source. But is he likely to get anything from the "Reserved" departments? I feel fairly sure that the revenue obtained and obtainable by the Executive Council will set the standard of their expenditure. The Services are under them and we know from experience that there is no limit to their demands and to the general sympathy with which requests for new appointments to be filled by English officials, for allowances for them, and for increase in their pay or pensions, is viewed by the Executive Council. The Minister in charge of the "Transferred" departments will be at the mercy of the Executive Council if there is no external control. From this aspect let us see how far the schemes are free from the criticisms which have been urged against the scheme in the Despatch dated 5th March (see paragraph 69).

16. The first objection is that overdrafts on provincial balances, taxation and provincial borrowing would require a clear demarcation of each half of the Government; my scheme provides for a clear demarcation by assignment of a share; further no taxation or borrowing ought to be allowed and no responsible Governor will allow it if the Reserved department is in possession of funds as they will be according to this division of subjects which, considering the comparative

needs of the two departments should be shared with the other. If therefore the Governor or some external authority is not allowed to allocate from the Revenues in one Department a certain sum for the benefit of the other, deadlocks are inevitable. There will be none under the Reforms Report scheme or Functions Committee scheme as the power of decision is left in the Governor or under the scheme I have put forward which does not allow comparative disparity of income. If such power is given to the Governor, we stand exactly where we stood under the Reforms Report scheme which also requires a decision in case of difference by the Governor. As to the provincial balance, my Colleagues have not yet decided as to the authority who is to make that division. I presume it must be the Governor. Apparently, we are not therefore better off. Again, it is unlikely that there will be such provincial balances for devision in the future, as both the departments unfettered as they will be by the rules of the Imperial Government, will utilize the resources at their disposal or at least earmark the same. It may also be that they may in future utilize the balance, as they ought to, in reduction of the debt.

17. The second objection given is that one half of the Government should not have power to refuse funds which may be required for the working of the other half. I have already pointed out in my Minute of Dissent that my Colleagues ignore the power of the Governor to decide in cases of dispute, and that this objection therefore can never arise under the Reform Report scheme. Disregarding, however, the Governor's power for the moment, the new scheme put forward by my Colleagues will, if this division of subjects is to be maintained, never leave for the reasons I have given any room for intrusion by the Minister and his Departments except as an importunate supplicant. The work of the Executive Council which will be in possession of by far the major portion of the funds will seldom be interfered with by the other. The scheme therefore does not comply with the condition or meet the difficulty to the same extent as the other two schemes. According to my Colleagues taxation will be possible only for the Executive Council and not for the other ; and to me it appears to be out of the question to allow a power of increasing the land-revenue in any form either by taxation or by settlements for their benefit, while it is to the land we have to look for the development and expansion of the important transferred departments.

18. The third objection about the friction which the annual allocation of funds will generate will arise in this case also though in a form very prejudicial to the Minister and the Transferred Departments who will every year have to claim contributions from the Executive Council. According to this scheme the Minister will be at the mercy of the Executive Council while according to the Reforms Report and the Functions Committee the Governor will decide between the two—a fairer arrangement ; while under the third scheme even the Governor is eliminated and one is not at the mercy of the other.

19. The fourth and last objection concerning the incentive for each department for the development of its own resources is, it appears to me, fatal to the entire scheme. For, what does it amount to ? Take the instance of land, which is the most important source of revenue to the province. The Executive Council, under the scheme, will not only take the normal growth of land revenue, but would be entitled to increase it by periodical settlements without any recourse to the legislature. Even under normal conditions they will have, compared to the Minister, ample revenue for their needs ; but there is little doubt that pressure will be put upon them by the English Services for increase in their establishments,

pay and services—a pressure to which they would not be unwilling to yield. It is very probable, therefore, that the raiyat already impoverished will be further harassed. The developments of the transferred departments essential to Indian progress will be retarded. The result will be the same with reference to all sources of revenues. The Minister and the Executive Council are invited by this proposal to raise as much revenue as they could; nothing can be more prejudicial to the interests of the country. It appears to me therefore that the scheme of my Colleagues, under these conditions, will be fatal to the prosperity of the country. Again in principle it is not right that the country as a whole should not benefit by the normal growth of revenue. Neither the scheme in the Reforms Report nor the 3rd scheme is open to this objection. Nor does it appear to me that the scheme of my Colleague, complies with the conditions which they themselves have laid down that the scheme is intended to tell each department what range of expenditure it may provide for; as in the case of the Minister, the expenditure can never be limited by the receipts from his earning departments and the opening balance at his credit but will be dependent upon what he thinks he should fairly demand from the other departments and also by the proceeds of fresh taxation.

It appears to me that all the reasons which have prompted these new proposals can be attained under the third scheme. It is unnecessary to create two separate pools by receipts from transferred and reserved subjects.

LAND REVENUE.

20. Indian poverty is attributable to the land revenue policy and the industrial policy hitherto followed, and it is satisfactory to find that the Committee recommend that taxation for imposing cesses on land and duties upon the unearned increment on land should be treated as a provincial subject (see paragraph 75) and also a transferred subject (paragraph 76) though apparently by an oversight they do not include taxation in the transferred list. The Government of India also agree that such taxation should be imposed by provincial governments without the previous sanction of the Government of India. The Committee state, however, (paragraph 79) that as the assessment of land revenue is left to executive action, the periodical settlement of land revenue must be treated as a reserved subject within the jurisdiction of the Executive Council only. It appears to me that these two propositions are incompatible. Cesses and duties cannot be imposed on land by the legislature without regard to the revenue imposed thereon by the Executive Council and *vice versâ*. The one is dependent on the other; and if the Committee's views are to be maintained, they will have to be treated as a mixed subject in which the Governor's opinion should prevail in case of any difference of opinion between the Executive Council and the Minister. In my opinion, however, there should be no increase of revenue merely by executive action. The land revenue or land rent should be treated as revenue pure and simple to be imposed only by the Legislative Council. At present, outside the permanently settled zemindaries, the theory maintained by the Executive Government is that land is the private property of the Crown, the landholder being bound to pay any assessment that may be fixed by the Executive Government at their discretion. India is the only country in the world where neither law, nor custom nor competition determines the revenue or rent. This has been responsible to a great extent for the increasing poverty of the country. It has certainly tended to keep away labour and capital from land. It appears to me to be therefore essential that the proposal of the Functions Committee that the entry "Duties upon the unearned increment on land" "should

be so framed as to make the provincial powers of land taxation as wide as possible" should be accepted so as to cover the case of land revenue assessment referred to in paragraph 79. This may be done by altering the entry into "all demands upon land" and by making the imposition of any revenue on land either by legislation or by periodical settlements a transferred subject. In the alternative, I would urge that it should at least be laid down that (1) the general principles of land-revenue assessment be embodied in provincial legislation as recommended ten years ago by the Royal Commission on Decentralization, and (2) every proposal of re-settlement of a district be embodied in a bill that should be passed by the Legislative Council like any other taxation bill.

INDUSTRIES.

21. The proposal of the Committee to transfer all questions of industrial development in my opinion should be accepted. As my colleagues are unwilling to accept this proposal, it is desirable to state the present situation. India we know was a great manufacturing country whose wealth attracted the East India Company. Before the Mutiny, her industries were by deliberate policy of active discouragement in India and by prohibitive duties in England, destroyed. She was thus reduced from an Agricultural and a manufacturing to an agricultural country. The general policy of the subordination of Indian to English commercial interests has since continued to the present day. India has been utilized for the exploitation of her natural resources, for the investment of English capital and for the dumping of English goods. Instead, therefore, of the Indian industries relieving the pressure on land, their ruin has thrown millions of workmen out of employ to compete with the agriculturists. This attitude of the Government has materially contributed to the unrest and disaffection in the land. It is therefore essential that we should adopt a course which would place us beyond suspicion.

We know now that there are Trade Commissioners whose business it is to find out the natural resources and facilities for trade—English trade in particular—that exist in the country. The results of their observations are to be made the basis of expert advice as to the best mode of utilizing those natural resources in the interests of English trade. It is true that the information would be equally available to the Indian public but we know that it is the commercial organizations in England that would be able to utilize them. There is no objection, of course, to the export of our raw products without detriment to the interests of the country itself, but she should not be deprived of the means of creating her own manufacturing industries and employing her own labouring population. This can only be done if the development of Indian industries is a "transferred" subject, otherwise a great export of food stuffs tending to the starvation of millions not only by depriving India of her foodstuffs which she badly wants, but also by depriving her of great opportunities which the manufacturing industries will afford her, will be the result.

Similarly, as to the investment of English capital. We know that we cannot do without English capital, but we must obtain it on the same terms generally on which it would be lent to the colonies and other countries. The terms must be those agreed upon between the English capitalists and competent Indians who will protect Indian interests. The English officials in India and the India Office have not in the past protected India. They have submitted to English capitalists and I have no doubt will do so in future. We want also Englishmen to start industries

in India but not to the detriment of indigenous industries. It is quite clear to me that unless there is an Indian to protect Indian industries, we will have English firms starting industries on a large scale in India in which the Indians will have very little share to the detriment of Indian industries.

That unfair means have been adopted to hamper Indian industries for the benefit of Lancashire and other capitalists is well known. Unfair competition should not be allowed.

For these reasons, if we do not leave the development of Indian industries in Indian hands, I feel satisfied that the same course will be followed in the future as in the past and will lead to increased irritation between Indians and Englishmen. Development of Indian industries should be a transferred subject. If any right of interference or advice is left to the Government of India, such power should be exercised only by an Indian Minister controlled by the Legislative Council. There is no objection whatever to the Government of India themselves starting any industries. But their further proposals as to advice to be tendered to Local Governments will repeat all the evils which have been condemned in paragraphs 117 to 119 of the Reforms Report. These proposals of my Colleagues to diminish popular responsibility and reverting to the old practice would appear to go against that part of the Reforms Report. The efforts of Provincial Governments in the past, meagre as they have been, have been hampered and not stimulated by the necessity under which they lay of obtaining the sanction of the Government of India and the Secretary of State at nearly every turn. More progress in the desired direction would have been made if they had had greater freedom of action.

I shall briefly notice some of the objections to transfer the development of industries to the Ministers. It will be noticed that according to the Functions Committee articles whose production, etc., requires control in the public interests and Central Research Institute and such heads as the Zoological Survey—are all-India subjects. In fact, it is a part of the scheme generally advocated by Indians that the Government should itself undertake the responsibility of starting and maintaining certain kinds of industries, which cannot be started or maintained by private enterprise. It is therefore not an argument against the transfer that the Central Government itself should maintain those industries which are required in the interests of military safety or political stability. In fact, such industries would afford scope for the training and employment of those Indians in higher branches who are competent to profit by it. They have nothing to do with the question of the development of industries. If, on the other hand, as my Colleagues seem to contemplate, such industries are placed in the hands of foreign companies, with loans, guarantees or undertakings to purchase products, they will not only stand in the way of the growth of indigenous enterprises but as in the case of railway companies will not assist Indians. The policy is opposed to the current view to nationalize such industries wherever possible, and will conduce to labour trouble in an acute form, widen the gulf between capital and labour, and increase racial friction. It appears to me therefore that it is wrong to say that the committee have ignored this aspect of the case. The argument that the Ministers will inevitably be devoid of industrial experience, as if the civilian member has great experience, is a strong condemnation of the proposals of my Colleagues to leave in the hands of the Governor the power of the appointment of Ministers. It is the policy that has been hitherto advocated by Indian publicists that has now been finally accepted even in England and by the Industrial Commission and there is little doubt that Indian Ministers can be

found who will be competent to do the work. Lastly, it is said that there is a racial question involved, that considerable influence would be exercised on Ministers to refuse any form of aid or countenance to British enterprise and to favour Indian undertakings. So far as Indians are concerned, this charge is absolutely unfounded. Objection to the English capital and enterprise is raised only when that stands in the way of Indian enterprise and Indian prosperity. And to remove any such misapprehension is it difficult to provide safeguards similar to those proposed by my Colleagues in other cases. But I assert without hesitation from experience that so far as the Government are concerned, the fear that they will unduly favour foreign enterprises to the prejudice of Indian enterprises is well founded. It is true enough that the Industrial Commission makes recommendations themselves unsatisfactory, which in some respects may assist the Indians but here again we know from experience how little we can rely on such recomendations when they have to be carried out in practice.

TRAMWAYS, LIGHT AND FEEDER RAILWAYS.

The Functions Committee have recommended that Light and Feeder Railways and Tramways should be in the list of Transferred Subjects under the control of the Indian Minister. My Colleagues would now transfer them to the "Reserved" List. The reason is that the Minister and the Legislative Council might interfere with the scheme of Railway development. Indian opinion is unanimous that District Boards should, in the interests of national progress, be allowed to build light railways; and the decision of my Colleagues is calculated to subordinate national interests to the interests of capitalists, railway companies. Existing contracts and guarantees will, of course, be protected, and further means can be easily provided for that purpose if the Governors' control is not sufficient. I would accordingly accept the recommendation of the Functions Committee.

EDUCATION.

22. It is necessary to have the issue clear before us. The question is not one between official control and university control, as it is supposed by those who put forward the findings of the Sadler Commission against the transfer of the subject of education. The question simply is whether whatever official control is to be exercised by the provincial governments should be exercised by the Minister. If there is no control to be exercised over university or secondary education, *cedit questio.* If there is any control, then should the Executive Council exercise that power or the Minister and the Legislative Council? Again, so far as the Government of India is concerned, what powers should be left to the Government of India; and, if so, who should exercise them? These are the questions.

The Functions Committee have proposed that Eduction as a whole should be transferred. My Colleagues would transfer only Primary Education. They would fix no limit of age which they leave to be fixed by the Minister, subject to the control of the Legislative Council. They would not fix the curriculum, *i.e.*, whether the entire teaching in all the subjects should be in English or whether English should be taught only as a subject, and what the other subjects are which should be taught. These also are to be left to the Minister and the popular assembly. It appears to me to be impracticable to divide the subject of Education like this. Hitherto no such division has been made anywhere in India.

Assuming, however, such a distinction can be made, should it be carried out? A foreign service with different ideals might be able to impart education to the leaders of the people, leaving it to them afterwards to take the necessary steps to impart education to the people of the country. But it appears to me, with all

respect, that it is absurd to expect them to impart national education to a foreign race. The Reforms Report leaves educational progress to the popular assemblies, and there is very little doubt that Ministers alone can obtain the money required for its expansion and improvement. Further, political progress is said to be dependent upon the expansion of sound education, and such expansion should not be left in the hands of classes which have hitherto opposed political and sound educational progress. Indians are deeply interested in it.

I have been the head of the Department of Education now for more than three years and I am satisfied that future educational progress depends upon Indian direction. My predecessor in this office, Sir Harcourt Butler, also would make it a transferred subject. The only other member of Indian Government who has been an Education member since the creation of the Department, Sir Claude Hill, who is unfortunately not here to sign the Despatch, has recorded his opinion in favour of transfer. The Governments of Bombay, the Punjab and the United Provinces would transfer education as a whole. The Madras Government would not transfer any branch of education. Bengal and Assam would not transfer collegiate education, but my Colleagues, like myself, are of opinion that this cannot be done if secondary education is transferred. Bihar and Orissa alone is opposed to the transfer of secondary, technical and collegiate education. My Colleagues would transfer primary education, while the reasons given in their report, if they are correct, tend inevitably to the conclusion that it is primary education that should be kept in the hands of the Government and that higher education may safely be transferred. Those who would keep education a reserved subject, do so I fear not in the interests of educational progress but for political reasons. They have themselves no scheme of education in view and their predecessors have been going on making experiment after experiment, all in the face of Indian protest, which they themselves have now to acknowledge had ended in failure. I should like briefly to refer to our educational policy.

A retrogressive policy has been followed since Lord Dufferin's time. Considering the vast problem that lay before the Government, it had been laid down that the Government should welcome every kind of private endeavour to supplement their efforts for the education of the country. Lord Dufferin's Government, however, declared that the Government should retire from any part of the field which could be, or should be, left to private effort and made educational progress depend on private endeavour aided by Government grants. The results on secondary and collegiate education were deplorable. National education not being recognised by Government as an obligation, the pupils were left to study in such schools and colleges as were maintained by private effort. Such schools were inadequate in numbers to receive the crowds who were seeking admission. Institutions multiplied to meet the ever-growing demand. Government grants were given only to the institutions which complied with its rules which were designed to secure efficiency. The other institutions failed to secure competent teachers. This again stood in the way of Government grants. A large number of inefficient institutions with incompetent teachers was the natural result of a system which does not recognize education as a national obligation, but only aids private effort by 'doles.'

Efforts were then made by the Government to confine higher education and secondary education leading to higher education to boys in affluent circumstances. This again was done not in the interests of sound education but for political reasons. Rules were made calculated to restrict the diffusion of education generally and

among the poorer boys in particular. Conditions for recognition for 'grants' —stiff and various—were laid down and enforced, and the non-fulfilment of any one of these conditions was liable to be followed by serious consequences. Fees were raised to a degree which, considering the circumstances of the classes that resort to schools, were abnormal. When it was objected that the minimum fee would be a great hardship to poor students the answer was—such students had no business to receive that kind of education. Managers of private schools who remitted fees in whole or in part were penalised by reduced grants-in-aid. These rules had undoubtedly the effect of checking the great expansion of education that would have taken place. This is the real explanation of the very unsatisfactory character of the nature and progress of secondary education; and it will never be remedied till we are prepared either to give education to the boys ourselves or to make sufficient grants to the private schools to enable them to be staffed with competent teachers. We are at present not prepared to do either. English education, according to this policy, is to be confined to the well-to-do classes. They, it was believed, would give no trouble to Government. For this purpose the old system of education under which a pupil could prosecute his studies from the lowest to the highest class was altered.

For the masses, a new course of elementary or primary education solely in the vernaculars extending to about 7 years was devised. It was hoped that this would keep them in their present condition confined to their lowly ancestral pursuits. Schools confined to vernaculars were opened and encouraged to draw away boys from English studies. It was intended, and rules were framed to carry out that intention, that if possible those who commenced their education in these schools were not to be encouraged to proceed to what are called the secondary schools instituted for English education. The masses, the poorer classes of people, were thus deliberately denied all access to any real or English education. The result is that on account of their being prevented from following their English studies, they do not care to continue their studies in the vernacular schools and they cast off the little smattering of knowledge they acquire and lapse into illiteracy again. They are thus denied all means of material improvement, self-development and culture. I am accordingly glad to find that my Colleagues are willing to leave the question of primary Education, including the question whether it should be English or Vernacular Education, to the Minister. But what has been our record as regards even primary education? In the earlier years of this century, Mr. Gokhale was pressing the claims of primary education upon the Government, and various statements on behalf of Government were made in the years 1906-7, which were taken to be promises of free education. So stood matters when the reformed councils met. Almost the first question to which the English educated community turned their attention was elementary education. Mr. Gokhale introduced his Education Bill which was opposed by Government and therefore rejected by the Council. But at the end of the year at the Darbar it was announced that the Government have resolved "to acknowledge the predominant claims of educational advancement on the resources of the Empire." As a fact, that acknowledgment has not been translated into action. In almost all the local councils attempts are being made to introduce private bills for optional compulsory education. These bills are allowed to be introduced only on condition that no financial responsibility is thereby imposed on Government. Local resources are inadequate and such education as is imparted will not be efficient. Without Government financial assistance the scheme will not succeed or even cannot be put into operation.

With reference to commercial and industrial education we do not give the higher education required to foster manufacturing industries, to start great commercial concerns of any kind, or produce captains of industry or commerce but we have industrial schools to train intelligent artisans or foremen or to further or develop the local cottage industries which are capable of expansion by the application of improved methods or improvements. Similarly, it was intended to start or encourage schools with commercial courses whose chief aim was to supply practical training for those who were to enter business houses in a subordinate capacity and hopes were held out that every effort would be made to find employment to pupils who received that training. The necessity of engineering and medical colleges is always recognised, but it is assumed that the efforts that should be made should not be in the direction of starting more colleges but in the directions I have indicated.

Now there is no doubt that in all this the Government were actuated by the highest motives, but at the same time there is no use ignoring the fact that the Indians were satisfied that all these changes were made with a sinister purpose. It is the universal belief and there is little doubt that facts unfortunately tend to support it, that, Primary English Education for the masses and higher education for the middle classes are discouraged for political reasons. Higher professional Industrial and technical education is discouraged to favor English industries and recruitment in England of English officials.

If, therefore, we should have more Indians in scientific and technical professions and more engineering and industrial colleges, experience shows that the present system must be abandoned and that an Indian Minister alone would supply the necessary institutions. Otherwise, we are likely to follow the same course as hitherto; we will tell those few of our young men who have made themselves fit for these professions that such education as they have received is not satisfactory; at the same time discourage them from going to foreign countries to receive education and fail to provide sufficient facilities for education in India itself. The errors of the past are admitted even by those who will not allow education to be a transferred subject and a promise is made to repair them. The subject is far too important and vital to the interests of the nation for any further experiments to be made or for the matter to be left in the hands of those who stand thus self-convicted and whose promises have not been faithfully kept. The reason often assigned for mistakes in the past has been want of funds, and conservatism of the rural classes both of which I entirely deny.

For the nature of our mistakes in the past, we have only to look to the Report of the Calcutta University Commission. They rightly point out that the teachers in the high schools are undereducated and under-paid. The fact is that the Government are not utilising the funds at their disposal to mitigate the evils of the system, which is described by the Bengal District Administration Committee and the Rowlatt Committee, for which we are responsible. The Commission point out that secondary education is unduly dominated by the examination system, which must be the case as long as the educational services are manned by officials who cannot, on account of their want of knowledge of the vernaculars, be responsible for the teaching: but who, at the same time, supervise the whole system. They further point out that the stage of admission to the University should be that of the present Intermediate instead of the Entrance examination, as the boys who have passed the latter examination are not fit for University education or their want of knowledge in English language. This is the result of the system.

to which I have adverted which has discouraged English teaching in the earlier classes even as a language, against strong Indian protest. They also refer to the fact that the Entrance Examination of the Univerisity is not a preparation for the medical, engineering professions, or for careers in agriculture, commerce or industry. This, again, is due to the policy which I have referred to, which would only give secondary education fit for clerks and managers of offices and not for higher education in those subjects for which the Department, (that is, the Government), is responsible. The Indian opinion, therefore, is not responsible at all for this result. The Commission accordingly propose, to remedy these defects, the appointment of a Board in which the majority should consist of non-official members—a recognition of the superiority of non-official guidance. They would make the Director an expert adviser " to the Member or Minister in charge of Education " which disposes of the arguments sometimes advanced that, according to the views they entertain, secondary education should be a reserved subject.

As to University education, there can be no more scathing condemnation of the system than that to be found in the Commission Report. It has to be remembered that the University itself is an officialised body under Government control. They say that the Government and administration of the University is unsatisfactory and ineffective as an instrument for encouragement of learning. They point out that even such a University is under the unduly rigid control of the Government. " There is far too much detailed Government intervention." They are perfectly right, and it is impossible under such a system that any University can carry on its work efficiently. It is just for that reason that Indians are anxious to get rid of the bureaucratic control and place the University and secondary education under the control of a Minister. It is not difficult to come to the conclusion that the same state of things will otherwise continue. I am therefore of opinion that the Committee's recommendations should be accepted and Education as a whole should be transferred. Most of the important Native States have gone ahead.

NON-BRAHMIN MOVEMENT.

24. The nature of the objections taken to the transfer of subjects is proof of the necessity of responsible government. Among the objections advanced to it, there is one which finds a place in this report which for reasons that will appear later I feel bound to notice. The representative of the Madras Government (and it is said the Madras Government accept his view) has taken objection to the division of subjects on the ground that without adequate protection being provided for by communal representation, the non-Brahmins will be oppressed by Brahmins. I support non-Brahmin communal representation but I demur entirely to the proposition that it should be regarded as an essential preliminary to any responsible government for the reason given. As we are likely to hear more of this contention, I propose to state my view of the situation.

25. For the consideration of this question, it is essential to recognise two divisions among non-Brahmins, the high caste Hindus and the lower classes. In the earlier years of the Congress, the non-Brahmin leaders were invited by the officials to stand aloof from it, and, if possible, to denounce it as inimical to their interests. They resolved to disregard the advice. Their main reasons were these : They found that by the British conquest it was the Mahomedans and the non-Brahmin higher castes who had suffered most. The Rajahs and the zemindars who were deprived of their

properties by the British Government generally belonged to those classes. By far the majority of them were either deprived of their properties or allowed to retain whole or portion of them on conditions which were very onerous. The revenue payable was very heavy with reference to the properties which they held at the time of British conquest. Their rights were being encroached upon. The ryotwari system before 1857 was iniquitous and destructive of private property. Subsequently, though not quite so bad, it was felt to be oppressive. The merchants and the artisan classes, the labouring classes, were involved in the misfortune of these superior classes. I have already pointed out that the *raison de être* of the Congress was the intense poverty of the people and the measures which they put forward to relieve such poverty, concerned the non-Brahmins more than Brahmins; the non-Brahmin higher castes, therefore, stood to gain from its success more than any others. The other questions which the Congress took up, like the separation of judicial and executive functions, also concerned them more. Under the conditions that then existed, and, to a great extent, even now exist, the Brahmins had far greater chances of success in the services and elsewhere. They had the qualities which were required by a foreign ruling race who wanted good subordinates. The Mahomedan and the Hindu zemindars and the Hindu martial classes were looked upon with suspicion on account of such of their qualities which are only required for administration and government; and not required in those whose main function was to obey and produce wealth which should be at the disposal of their masters. The non-Brahmin leaders, therefore, felt that they had a better chance of success in the new condition of things which they hoped would be brought about by the Congress agitation when the qualities which they, in their own opinion, possessed in a higher degree than the Brahmins would have a better scope. They found also that, though the old class of Brahmins had faults which are now imputed to them by the leaders of the non-Brahmin movement, a distinct improvement was visible in the younger generation that was growing up and they hoped that common efforts, common aspirations, and the common good of the country will introduce a change in the Brahmin class. These hopes have not been disappointed. It is true that there are still Brahmin leaders under the domination of feelings and sentiments which are not conducive to harmony or progress, but, on the other hand, there is no doubt that, generally speaking, the Congress movement has brought about a greater rapprochement between the various classes. Mrs. Besant, in particular, has brought over the whole of her Brahmin party to discard the Brahmin restrictions which stood in the way of the hearty co-operation with the non-Brahmins. Besides the reasons above referred to, the non-Brahmins were startled at the official attitude. Many of the officials while insisting upon the existence of this class division as a bar to political progress, not only did not themselves take any active steps to remove them but by their passive resistance foiled every attempt of the reform party to remove such restrictions. The latter were sneered at as Anglicised Indians who had lost touch with the ordinary people and therefore untrustworthy in these matters or denounced as impracticable visionaries. Several officials went even so far as to say not only privately but in public that this ancient caste system was necessary to the stability of the society as it accustoms the people to order and obedience to authority and it is therefore in the interest of the Government to support that system. The non-Brahmin leaders felt therefore that very little could be hoped from officials to remove this caste restriction. These were the reasons, so far as I remember, that determined the attitude of the non-Brahmin leaders then and I do not think those reasons have lost their force now.

I have already referred to a number of reforms that are long overdue and they are far more beneficial to the non-Brahmins than to the Brahmins. If the propsed reforms are carried out in their proper spirit and proper rules are framed, I have not the slightest doubt that the non-Brahmin higher Hindu castes will be gainers. I fail to see how they will be worse off.

26. In the case of the depressed classes the conditions are different. It is absurd to say that their position, so far as their material prospects are concerned, has improved under the British Government. It has steadily gone from bad to worse. To mention only a few instances, under the old custom they were entitled to free house sites, materials free from the jungles for building their cottages, free pasturage and a fixed share of the produce of the land which they cultivated for their wages, which ensured a living wage. All these they have lost under the ryotwari system. With the ruin of the Indian industries also the non-agricultural labourers lost their fixed wages and they were involved in the ruin of their masters. The agricultural labourers suffered equally from the Government and the zemindars and the big ryots. The proposed reforms will not directly benefit them to the same extent as the superior non-Brahmin castes, but they are bound to share in the benefits which will accrue to the whole country if the reforms are carried out in the directions indicated and the poverty problem, in particular, is properly dealt with. Amongst them it is very doubtful whether representatives can be found in sufficient numbers to protect their interests against the higher castes, Brahmins and non-Brahmins who now lead the agitation in Madras and the planters and capitalists, but I think it is possible to devise rules which will enable them materially to influence elections, or, to create electorates, to send their representatives to the Council. In any event, I am fully satisfied that this class cannot possibly be worse off under the proposed reforms, while it is probable that their position can be improved, and it is certain that, if properly safeguarded, it will be improved.

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27. I cannot agree with my Colleagues in their proposals in paragraph 23 about inspection and advice. According to them, these officers are to inspect the operations of the Reserved and Transferred Departments, offer criticisms for the attention of the Governor to be called to the defects disclosed so that he might use his influence and authority to secure their removal. The authors of the Reforms Report have pointed out (see paragraph 118) that such official inspirations have increased the disposition to interfere in provincial details ; they further point out that a substitute for them, in future, should be found in the stimulus afforded by public criticism. Though the necessity of publicity and public criticism is recognised by my Colleagues in the paragraph above referred to, I have little doubt that the tendency again will be towards interference with the Transferred Departments and also with the Reserved Departments. It is the Government of India, as is recognised in the Reforms Report, that have stood in the way of reforms which the Provincial Governments had been willing to carry out. I am, for these reasons, unable to support the recommendations of my Colleagues.

Considering the nature of these recommendations by my Colleagues, it appears to me that the further consideration of these questions should not be put off till the appointment of the Statutory Commission, and that the proposals in the Reforms Report empowering the Viceroy to transfer subjects if he thinks fit to do so, should be maintained.

Simla, 16th April 1919. C. SANKARAN NAIR.

G. M. Press, Simla.—No. 31 E.D.—1-5-19—1,200—B.P.

List of enclosures.

I. Report of the Committee on the division of subjects, dated February 26, 1919.

II. Draft of the instrument of instructions to the Governor.

III. Selected opinions on the question of the transfer of education.

IV. Opinion of the Railway Board on the question of light and feeder railways.

APPENDIX II.

Draft Instrument of Instructions.

The Governor is responsible to Parliament for doing his utmost, consistently with the general purpose of the Government of India Act, 19 , to maintain the standards of good administration and to further all changes tending to make India fitted for self-government. He is required to encourage religious toleration, co-operation and good-will among all creeds and classes, to protect the interests of all minorities, to maintain the standards of conduct of the public service and the probity of public finance, and to promote all measures making for the moral, social and industrial welfare of the people and tending to fit all classes of the population without distinction to take their due share in the public life and government of the country.

In particular and without prejudice to the generality of the foregoing:—

I. The Governor is responsible for maintaining the safety and tranquillity of his province and for using his influence to compose religious and racial animosities, and to prevent religious and racial conflicts;

II. The Governor has a general responsibility for seeing that the administration of the transferred subjects by ministers is properly conducted. He will assist his ministers by all the means in his power with information and advice. He will restrict the exercise of the power to act in opposition to his ministers' advice, which is vested in him under section of the Government of India Act, 19 to cases in which he considers that the consequences of acquiescence would be serious, bearing specially in mind his responsibility for the reserved subjects and the responsibilities laid upon him in clauses I, IV and VII to XII of these instructions.

III. The Governor is required to advise his ministers in regard to their relations with the provincial legislative council, to support them generally in difficulties so far as possible, and in the event of an adverse vote in the legislative council to require the resignation of a minister only when it seems to him that the minister has lost the confidence of the council.

IV. The Governor is responsible for the due compliance with any orders affecting the administration of transferred subjects which may be issued by the Secretary of State or the Government of India.

V. The Governor is responsible for bringing to the notice of the minister concerned any observations on the administration of a transferred subject which may be communicated to him by the Government of India.

VI. In the case of any provincial Bill which appears to the Governor likely to affect any matter hereby specially committed to his charge, or any all-India subject, or any general principles laid down by the Secretary of State or the Government of India for the administration of a reserved subject, the Governor shall, before assenting to such Bill, consider whether he should reserve it for the consideration of the Governor General.

VII. The Governor is required to see that no monopoly or special privilege which is inconsistent with the public interest is granted to any private undertaking and that no unfair discrimination in matters affecting commercial or industrial interests is permitted.

VIII. The Governor is responsible for the safeguarding of the legitimate interests of the European and Anglo-Indian community.

IX. The Governor is responsible for the protection of all members of the public services in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges.

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IX. The Governor is responsible for the protection of all members of the public services in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges.

X. The Governor is required to secure that in all extensions of educational facilities adequate provision is made for the special needs of the Muslim and any other minority community.

XI. The Governor is required to secure that the interests of existing educational institutions maintained or controlled by religious bodies are duly protected in the event of any changes of educational policy affecting them adversely.

XII. The Governor is required to secure that due provision is made for the advancement and social protection of depressed and backward classes and aboriginal tribes.

APPENDIX III.

(*Vide para. 10th* of despatch.)

Extract A.

"We have in India already many illustrations of the way in which popular control works in educational institutions. I do not hesitate to say that the only institutions that I know in India which are efficient are those which are under Government management, which are for that reason relatively free from the illegitimate external pressure which all other institutions have to undergo. In particular, it is significant that teachers prefer, if possible, to be employed in Government institutions, even at lower salaries. The main reason for this preference is that they have security and some protection against the kind of pressure I have described.

"It is in the maintenance of discipline, and the relations between teachers and their pupils both in Colleges and in high schools that this kind of illegitimate influence is most unhappily displayed. In every dispute between teachers and students, what is known as 'public opinion,' and in particular all the influence of the politicians, is invariably arrayed on the side of the students, who are always assumed to be in the right; the teachers who try to maintain order, peace and discipline always find themselves even in private colleges, abused and condemned as Government agents. If education is placed under popular control, no teacher will dare to maintain discipline, or to oppose the wishes of his students.

"It is true that the teaching profession to-day, because of its poor pay and low status, does not attract the best men. But under a system wherein they will be exposed to perpetual criticism, and brought under the control of lawyer-politicians always subject to public pressure, the calling will sink into yet greater disesteem. The lawyer's jurisdiction over the teacher will lead to unhappy results because the kind of material and records upon which the teacher has to base his disciplinary decisions are wholly different from those to which the lawyer is accustomed, and the decision of a non-educationist lawyer will nearly always go against the teacher.

"The vital fact of the whole situation in India, indeed, lies in the fact that it is upon the body of half educated students that what is called public opinion mainly depends. Students form the overwhelming majority at all public meetings. They are the agents principally employed in every kind of propaganda. The public esteem and popularity which make the reputations of politicians are mainly conferred by students. No popularly elected minister dare defy their opinions however ill-founded. And the result will be that educational policy will be guided mainly by untrained student—opinion not by expert knowledge and judgment. This is specially the case in regard to the standards of attainments represented by various examinations. The minister who used his power to lower and degrade these standards would be acclaimed; the minister who was identified with any attempt to raise them would lose his popularity.

"The efficiency of primary education where the aim is only to give a knowledge of the rudiments can be easily ascertained. It is very easy to see whether the boys can or cannot read and write. At the higher stages it is harder to form a sound judgment; and, therefore, public opinion is tempted to judge only by the number of "passed" in examinations, and to think that all is well if most of the candidates pass; nor will they realise deterioration until it is too late to remedy the defects. Nothing could be more dangerous to the development of a sound educational system than that this notion should be established and enforced upon the supreme authority, as it would inevitably be if that authority were a popularly elected ministry."

Extract B.

"The success of the reforms scheme, and indeed the progress of the country, are dependent to an extent, it would be difficult to overestimate, on the policy pursued in regard to secondary and university education. It is from the secondary schools and the universities that the men will be drawn who will fill the legislature, the public services, and the local bodies. At present, in these provinces, the standard is lamentably low; politically and industrially its improvement is probably the most vital problem with which the administration is faced. Even in England, the home of individualism, the importance of a sound system of national education is at last realized; and it is certain that in future no effort will be spared to make up the leeway of the past. In this country, unfortunately, the influence of an ill-instructed public opinion is all the other way. In the legislature, in the press and public meetings, demands are continually being made for changes which admittedly would involve the lowering of the existing standard such as this is. In part those demands are inspired by distrust of the motives of the Government, which is suspected of desiring to restrict educational facilities; in part by a not unnatural sympathy with struggling parents (in the present dearth of industrial and commercial openings the university is almost the only avenue open to boys on leaving the high schools), and in part by sheer ignorance. The fact, however, remains that such is the popular attitude on the subject of higher education; and there are at present no indications that it is likely to alter for the better in the near future. If past experience is any guide, the course of educational policy under popular control is likely to be steadily downwards for a period the length of which cannot be foreseen."

Extract C.

"Primary education is a complete educational unit. It has been developed along sound lines in the part of India that I know best, and, aside from the inadequacy of its diffusion, it is the most successful branch of the whole educational system. By all means let this department be entrusted to the provincial council. In the extension of primary education over the entire population Indian politicians will have a task sufficiently large for their utmost energies, and a task that will be congenial too; for the spread of primary education is a cherished aim among many of the ablest of them. But let us keep secondary education, the foundation of the whole system of English education, the key to India's intellectual advance along Western lines, meanwhile, under the authority which now controls it. In this view I have the support of all the men experienced in Indian education with whom I have discussed this question since your report appeared. These include one who stands foremost amongst Indian educators who gives his most emphatic support to the view which I have advocated, *viz.*, that secondary education must, at all costs, be excluded at this early stage of the new constitutional experiment from the list of the transferred subjects.....
With all earnestness therefore I would urge that even in a tentative list secondary education be not included among the transferred subjects."

APPENDIX IV.

Note by the Railway Board in connection with para. 15 (2) of the functions committee's report and item 6 (a) of the list of all-India subjects in part 3 of that report.

(1) The Railway Board understand from the proposals of the subjects committee that in the event of a local authority or other authorized body desiring to introduce a Bill for the construction of a light or feeder railway, it will in the first case merely be necessary for the promoters to give the Railway Board notice of the intention to introduce such a Bill and that it will thereafter rest with the Railway Board to make representations before a select committee to be nominated by the provincial council concerned, should they desire to oppose the Bill, or to secure special safeguards to existing interests.

(2) The conditions governing railway questions in India differ very widely from those prevailing in England and are complicated in this country by the existence of contracts between each owning or working administration and the Secretary of State for India. The Railway Board are of opinion that a committee of a provincial council would not be a proper body to adjudicate upon questions arising out of these contracts, nor would they be in a position to judge as to whether the proposals were in accordance with the Government of India's railway policy. Even if this were not the case, the proposed procedure offers no advantage over that now existing. Under it the Railway Board themselves carry out the functions of the proposed committee and are in a much better position to do so from their special knowledge of the circumstances attending each case.

(3) Apparently the chief objection to the present system is the delay which occurs between the submission of an application to construct a light or branch railway, and final sanction to commence construction. Some delay is unavoidable, as not only have local conditions to be closely examined and rival interests given consideration to, but terms for the construction and working of the feeder line have also to be arranged with promoters and the working agency proposed. The delay will not be lessened by reversing the currents in the direction proposed by the functions committee. It is on the contrary more likely to be increased owing to the necessity of submitting the scheme, after approval by the local council, to the Government of India who may find themselves unable to accept the proposal as submitted. It would create an awkward position, if a scheme which the Railway Board had opposed but which thereafter received the approval of a local Government, were to be rejected by the Governor-General on the advice of the Railway Board.

(4) The present system is roughly as follows :—

In the Madras Presidency most of the promoters are district boards and make their applications to the local Government. The local Government (*i*) institutes enquiries into the necessity for the line, the ability of the district board or other promoter to finance its construction, the particular alignment it should follow in order best to serve local interests, and (*ii*) consult the Agents of existing railways (if any) whose interests might be affected. In these latter cases reference has usually to be made by the local Agent of a railway to his Board of Directors in England. On completion of the preliminary enquiries, the local Government submits the scheme to the Railway Board with a request for sanction to the necessary surveys. The Railway Board, if satisfied that the scheme is a promising one, and does not conflict with their general railway policy, take steps to have the alignment surveyed and careful estimates of the probable cost, amount of traffic, etc., prepared. If these prove favourable, the local Government proceeds to arrange the final terms for the construction, and

working of the branch line with the administration of the parent line concerned. In certain cases, the local Government finds it necessary to call in the assistance of the Railway Board in the settlement of terms with the main line administration; but in the majority of cases when the scheme proposed does not adversely affect the interests of the main line, there has, in the past, been no difficulty in arranging reasonable terms.

When these terms have been settled, a formal application, embodying the terms settled, for the grant of a concession, is submitted by the local Government to the Railway Board, who, if satisfied with the proposals in regard to the grant of a guarantee or rebate, etc., and with the arrangements proposed for financing construction, approve the scheme and accord sanction to construction.

In provinces other than Madras, promoters make their applications either to the local Governments or to the Railway Board direct, but in any case the Railway Board, before reaching the stage of sanctioning a survey, consult the local Governments as to the merits of the application, and simultaneously make a reference to main line administrations affected by the proposal. Subsequently to the sanctioning of a survey, the Board enter into negotiations with the working agency proposed in regard to terms for construction and working; on the settlement of which they grant a concession for the construction of the line.

(5) The scheme proposed by the functions committee would necessitate the same amount of enquiry and would not in any way secure additional regard to local demands. On the other hand, the functions committee fails to take into account the fact that it is the Railway Board who are responsible for the terms of the concession, whether of guarantee, period of tenure, or terms of foreclosure by the Government of India on the determination of the lease. Moreover, in some cases, in particular where a line short circuits existing systems, the proposal has generally to be referred for the sanction of the Secretary of State. There are also cases where railways belonging to native States are affected. The machinery proposed by the functions committee would be altogether unsuitable for dealing with these.

(6) Under existing circumstances the Railway Board feel themselves compelled to advise the rejection of the committee's proposals.

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